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IN

HISTORICAL AND POLITICAL SCIENCE

(Edited 1882-1901 by Herbert B. Adams)

J. M. VINCENT
J. H. HOLLANDER W. W. WILLOUGHBY
Editors

BEGINNINGS OF MARYLAND

1631-1639

BY

BERNARD C. STEINER, PH. D.

Associate in History in the Johns Hopkins University

BALTIMORE
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BEGINNINGS OF MARYLAND

THE FIRST SETTLEMENTS AND THE ESTABLISHMENT OF THE CAPITAL AT ST. MARY'S

Introduction

The twenty-fifth of March is the day on which the first colonists sent out by Lord Baltimore landed on the soil of Maryland. In 1903, that day was celebrated throughout the schools of the State as Maryland Day, and the establishment of that custom seems to make a restatement of the beginnings of the settlement of the Province, a task worthy of accomplishment. The attempt is here made to trace these beginnings, with the same minute care with which the citizens of Massachusetts have traced the beginnings of their Commonwealth. No one has attempted to do this in an elaborate fashion, since the publication of the Archives of Maryland has unlocked the treasures of our early records. A careful study of these printed records yields many new details, and additional facts of interest, with reference to the Kent Island Colony, are found in the manuscript records of the English Court of Admiralty.

Lady day in March is a fit time for the beginning of things. With the feast of the Annunciation, all mediæval Christendom began the new year, and tenants of land throughout England remembered it as the quarter-day, when rents were paid. No fitter day could be chosen than this as the natal day of that State which is Terra Mariæ. No other day was so well suited for the first settlement of

the province and no other name could have been given to the place of settlement than the name which was hers to whom the day was dedicated and hers from whom the province took its name. The pious men in the first company of settlers must have thought with pleasure on this coincidence of dates when they landed on the bank of the Potomac. Spring was at hand and with it bloomed Maryland into life.

The little band that began the provincial history of Maryland had sailed from England[1] on November 22, 1633. The reverend chronicler of the voyage, that "discreet" Jesuit, Father Andrew White, remembered that it was St. Cecilia's Day, and thus all Maryland's beginnings had the gracious patronage of woman. The narrative of Father White has reached us in various forms. Written shortly after the landing, in both English and Latin, the former was transmitted in at least two copies, one to Sir Thomas Lechford and one to Lord Baltimore. The copy sent Lechford[2] came into possession of the Maryland Historical Society in 1894 and has been published by them, while that sent Baltimore was used by him as a basis of a little pamphlet[3] spread abroad by him as an advertisement of his colony and known as "A Relation of the Successful Beginnings of the Lord Baltimore's Plantation in Mary Land," 1634. The Latin narrative, sent to White's ecclesiastical superior, Mutius Vitellesetis, or Vitelleschi, was preserved in the Jesuit archives, and was translated by N. C. Brooks for the Force's Tracts,[4] while the narrative itself, with a translation by J. Holmes Converse, was edited by Rev. E. A. Dalrymple and published by the Maryland Historical Society.[5]

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[1] 35 Fund Pubs. 23, 26.
[2] 35 Fund Pubs., Calvert Papers, No. 3, ed. by C. C. Hall.
[3] Reprinted as Shea's Early Southern Tracts, 1, 1865, as edited by Brantz Mayer.
[4] Vol. 4.
[5] 7 Fund Pubs. On p. 117 is a sketch of Father White's life.

Claiborne and His Enterprise

The charter of Maryland had been granted to Cecilius Calvert, second Lord Baltimore, on June 20, 1632, and he had at once taken measures to send an expedition to occupy his new province. The delay of fifteen months before the expedition started was due not alone to the necessary preparation for the voyage, but also to the opposition of the Virginians.[6] They claimed that their rights were infringed by Baltimore's charter and pointed out that, while the old Virginia company still existed, in 1623, an order in Council had assured the "Adventurers and Planters" that their estates should receive no prejudice, but should be fully and wholly conserved, all changes made being merely in the form of government. These pledges had been renewed several times, yet now they find a large tract of land contained in the limits of the company's charter given to another. As the adventurers in Virginia were, in a manner, tenants in common, their claim could not thus be wiped out and their estates preserved. Worst of all, the new charter gave Baltimore, a Roman Catholic, two-thirds of the Chesapeake Bay, or the "Bay of Virginia," and cut off the Virginians from the profitable Indian trade in the north. That trade had been carried on by them for twenty-five years, and they had issued commissions for men to exchange "truck" for furs from year to year. Among these traders had been William Claiborne, a younger son of a Westmoreland family,[7] who had come to America as

---

He was born in London about 1579, ordained as a secular priest 1605, and became a Jesuit in 1609. He had taught candidates for the priesthood in Spain and at Douay and Liège. He acquired the Indian language, located himself at Mattaponi, prepared an Indian grammar and catechism. In 1644, he was seized by Claiborne's men and sent to England with Father Fisher, charged with violating the law as to missionary popish priests. He never returned to Maryland after his release but died under an assumed name in London on Dec. 27, 1656. Father Fisher returned to Virginia in 1648.

[6] Council, 5 Md. Arch. 175, 3 Arch. 19.

[7] Second son of Sir Edward Cleburne or Clayburne. Neill, Found-

surveyor of the Virginia Company in 1621, and gaining prosperity, had been made Secretary of State for the Province in 1625. In 1627 Governor Yeardley, of Virginia,[8] gave him authority to sail "with a sufficient companie of men in a shallop for discoverie of the bottom of the Bay of Chesepeck," to trade with Indians there and to govern his company on the voyage, save as to matters of life and death, according to the laws of the sea. A like commission[9] from Gov. John Pott in 1628 authorized him to trade with the Indians for six months. The success of these voyages was such that Claiborne, who had been made captain of forces against the Indians[10] in 1627 and in 1629,[10a] associated himself with a firm of London merchants, known as Cloberry & Co., or Cloberry & Murehead, who were to advance capital for the business. In the course of his trafficking, Claiborne had been pleased with what Capt. John Smith called Winston's Island. On this island he proposed to establish a plantation, and for that purpose a commission was obtained on May 16, 1631, from Charles I, signed by Sir William Alexander, Secretary of State for Scotland,[11] authorizing him and his associates to trade "for corne, furres or any other comodities in all parts of New England and Nova Scotia, where there is not already a patent granted to others for sole trade," and directing the officers in Virginia to permit him and his companions to trade in "all the aforesaid parts" without any hindrance. Why this grant was obtained under the Scotch crown is unknown. Possibly Clo-

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ers of Md. 38. Neill thought the English home might be the reason of the name of Westmoreland Co., Va. Claiborne returned to Virginia in 1640 and closed his life at West Point. The date of his death is unknown.

[8] Coun., 5 Arch. 158.

[9] Coun., 5 Arch. 160.

[10] Neill, Founders of Md. 39.

[10a] Coun., 5 Arch. 161. In that year he signed as councillor the statement against George, Lord Baltimore.

[11] Coun., 5 Arch. 162; 3 Arch. 19.

berry & Company had friendly relations with Alexander, for it seems that the firm obtained the grant.[12]

It will be noticed that this is neither a patent for land, nor a grant of trade in Virginia, nor a grant of jurisdiction, which defects caused Claiborne much trouble later. Coming up the Chesapeake with this commission, he "planted" his chosen island, calling it the Isle of Kent, and soon afterwards bought the land from the Indians, about one hundred of whom he found there.

It is not quite clear who took the initiative in forming the partnership between Cloberry & Co. and Claiborne. After the latter's return to England, in 1637,[13] a suit was brought against him by Cloberry & Co.[13a] for an accounting, and from the affidavits then made, we learn that both parties had visions of a very profitable trade with the Indians in the Chesapeake and Delaware Bays, the Hudson River, New England, and Nova Scotia. William Cloberry had "adventured" to Canada with Kirk and so did not enter into the plan ignorantly. He took two-sixths of the joint stock and the other sixths were taken by John Delabarr, Maurice Thompson, Simon Turgis and William Claiborne. It was later claimed by Claiborne that the venture, on account of his offices in Virginia, was but for one voyage, but it seems more probable that it was intended to be a permanent connection. It was at his instance that the Scotch commission was obtained, as he claimed he could not go without hindrance from the Governor of Virginia,[14] unless he had especial royal license. Though not satisfied with this license, Claiborne was induced to rely on it

[12] New England's southern boundary was 40 degrees, considerably north of Kent Island.

[13] Coun., 3 Arch. 32.

[13a] Much of the information as to the early history of Kent Island Plantation comes from the unpublished records of the London Court of Admiralty, transcripts of which are possessed by the Md. Hist. Soc. Martin c. Claiborne, 1638. Cloberry c. Claiborne, 1638-1640. Claiborne c. Calvert, 1643. Smith c. Cloberry, 1645.

[14] Had relations between him and Harvey already become strained?

for the present and not stop the voyage. Afterwards he asserted that Cloberry & Co. promised to obtain a patent of land, shortly, through their friends at court. Their failure so to do was one of his great causes of complaint.

The partners[15] fitted out the Africa, John Watlington, master, carrying a cargo valued at £1318.19.8 and 17 indentured servants, and paid the owners of the vessel £700 for freight and wages of the seamen. They alleged later that Claiborne only paid for his sixth of the cargo and promised to allow interest for the other advances at the Virginia rate, 25 to 30 per cent. Several passengers for Virginia were also on board and the ship left England on May 28, 1631.[16] On July 20 they reached Kecoughtan, where they established a storehouse, in which supplies and peltries could be kept until the sailing of the ships from that point to England. They also provided themselves with nineteen sows and a boar,[17] hens and a cock, ducks, a wherry, and other needful supplies for the plantation. After a short stay in Hampton Roads, the expedition sailed up the bay and reached the island. The settlement of Kent Island was made on August 17, 1631, almost a year before the charter of Maryland was granted to Baltimore, with the right of jurisdiction over territory "hitherto unplanted." Thus Claiborne is seen to have some ground for his case, though himself without a grant of jurisdiction, if this famous clause in the charter was understood as one of limitation and not description. Claiborne did not spend all his time on Kent Island, though he had a private plantation there called Craford,[18] but con-

[15] Thompson came on the Africa at Deal and made inventory of the joint stock.

[16] Many of these dates come from Claiborne's itemized account appended to his answer to Cloberry and Co., Nov. 11, 1639. Admlty. Recs. Libel 100, No. 63.

[17] A boar from Popley's or Poplar Island was bought on Sept. 3, 1632.

[18] Coun., 5 Arch., Davis Day Star 44: Claiborne's settlement was at Kent Point, near by were the mill and fort. Baltimore gave the manor to Leonard Calvert for his services in the con-

tinued to possess his Virginia residence at Hampton or Kecoughtan, and to sit in the Virginia council. On March 8, 1631-2 after Kent Island was planted,[19] Claiborne showed his adventurous nature by securing from Governor Harvey, of Virginia, a license to trade unto the adjoining plantations of the Dutch or unto any English plantations. The chief advantage of his Scotch commission seems to have been that it was unlimited as to time.[20] Kent Island was so thoroughly regarded as a part of Virginia before ever the name of Maryland was heard of, that in the House of Burgesses sat in 1631-2 Capt. Nicholas Martin as delegate from Chisquack in the Northern Neck and Kent Island.

Opposition to Lord Baltimore

When word of the Maryland charter came to Virginia, the planters there prepared a petition to the King of England,[21] which was referred on May 12, 1633, to the Lords Commissioners for foreign plantation. On June 4 they summoned all parties to come before them on June 28, and, after hearing the cause, postponed decision until July 3, in hopes that the controversy might be accommodated in friendly manner. As these hopes failed, the decision was made that they would leave the Lord Baltimore to his patent and the other party to the course of law, according to their desire. "To prevent further difficulty the Commissioners directed that the Planters on either side shall have free traffique and commerce with each other

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quest of the island and the latter assigned it to Capt. Giles Brent on Sept. 7, 1640, in whose family it remained for some generations. Craford stood near Craney Creek, now a pond, and is frequently mentioned in old land records. The Matapeake Indians lived at one time near Indian Spring, at another in Matapex Neck. 2 Bozman 97 suggests that the Fort was probably situated on the first navigable creek lying on the left hand in ascending the Eastern Bay after passing Kent Point. The local tradition agrees with this and bits of glazed bricks can be picked up on the supposed site.

[19] Coun., 5 Arch. 163.

[20] It also gave him clear right to trade outside of Virginia.

[21] Coun., 3 Arch. 21.

and that neither part shall receive any fugitive persons belonging to the other, nor doe any Act which may drawe a warre from the Natives upon either of them; and, lastly, that they shall sincerely enterteine good correspondence and assist each other on all occasions, in such manner as becometh fellow subjects and members of the same State." This was a practical victory for Baltimore, though Claiborne claimed that he won,[22] since the Isle of Kent was cultivated and hence was not included in the "Patent" to which Baltimore's rights were referred.

At this time the King wrote to the Virginia Governor and Council, courteously acknowledging their petition, stating that he wished a mutual correspondence between Baltimore and them,[23] and directing them and "the rest of the Old Planters" to use Baltimore, who planned to head the expedition, "with that courtesie and respect that belong to a person of his rank and qualitie and departed from hence in our very good grace and favor." They should suffer his servants and planters to buy and transport "such Cattell and other commodities to their Colony, as you may conveniently spare at reasonable rates." In general, they must give "such lawfull assistance as may conduce to both your safeties and the advancement of the plantation of those Countries." On July 31, the Privy Council directed all officers to forbear to take or press any persons belonging to the Ark, either on the voyage to Maryland or on her return, and that she be allowed "to pass and return without any let or hindrance."[23a]

Armed with such credentials as these, it might be thought that the future course of the Lord Proprietary would have been an easy one, and such might have been the case had Calvert's enemy less pertinacity or dogged persistence than Claiborne. But with that man the overthrow of Baltimore became a fixed and permanent idea.

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[22] Coun., 3 Arch. 32.
[23] Coun., 3 Arch. 22.
[23a] Neill, Founders of Md. 60.

Year after year, under king, commonwealth, or protector, he battled to destroy the power of the Maryland charter. So struggling, he outlived his adversary, and his last fruitless petition was dated forty-five years [34] from the settlement of Kent Island and was made to Charles II by "Col. William Claiborne, a poor old servant of your Majesty's father and grandfather." Assuredly, Claiborne was the "evil genius" of the proprietor, if not of the province.

The Lord Baltimore's First Expedition

The summer and autumn of 1633 passed with busy preparations made by Baltimore for his new plantation.[34a] Finding that his presence in England was required,[35] reluctantly he gave up the leadership of the expedition, trusting "by the Grace of God" to be in Maryland in the fol-

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[34] Coun., 5 Arch. 158, March 13, 1676-7. See McMahon's Md.

[34a] Johnson's Foundation of Md., 18 Fund Pubs. 24, prints from Stonyhurst Anglia, Vol. IV, a paper entitled "Objections answered touching Maryland," which was prepared by Richard Blount, Provincial of the Jesuits, for Baltimore's guidance. It maintains that the English laws against Roman Catholics were made for "reason of State; for the safety of the king and kingdom more than religion, was the cause and end of those laws," that it is better to let Roman Catholics go to Maryland than to allow the country to remain in possession of heathen, and that Romanists have already been permitted to go to France, a country to which the king's title is even better than to Maryland. The paper goes on to answer objections; that the king's revenue will be impaired by loss of the benefit it receives from the estate of English recusants, that the settlement of Roman Catholics in Maryland would much prejudice England by drawing considerable number of people and transporting wealth thence, that a settlement of Roman Catholics would be dangerous to the Protestants in Virginia and New England. Better English Romanists than Dutch or Swedes, said the provincial, and no emigrants to Maryland, as long as they may live peaceably under their own government without oppression, either in spirituals or temporals, will desire to bring in any foreigners to domineer over them, which misery they would undoubtedly fall into, if any considerable foreign prince or State had the possession of the English colonies in Virginia or New England. The paper shows the care with which Baltimore armed himself against interruption in his plans.

[35] 28 Fund Pubs. 134.

lowing year. His presence in England was ever necessary to guard his charter privileges in the troubled years that followed, and the first Lord Proprietary of Maryland never saw his distant province. To replace himself at the head of the party, he put his brother Leonard, then about twenty-eight years old, and with him sent a younger brother George. The lieutenant-governorship of Maryland, thus conferred upon Leonard Calvert, remained in his possession, except when he was thrust out by revolution, until his death a dozen years later. He seems to have been a tolerant, cool, conscientious man, faithful to his brother's interest, possessed of some executive ability, but with the fatal lack of personal magnetism, of the power to attach men to himself, or of the ability to judge who would be faithful to him, which was so detrimental to the Calverts and so characteristic of the family. Of his private life, we know but little, though he was certainly married. Of George Calvert[25a] we know almost nothing, and he was not one of the governing board of the expedition, probably because of his youth. Jerome Hawley,[25b] a

[25a] He is said to have removed to Virginia, and died there. Gov. Leonard Calvert left two children. (1) Col. William Calvert, mem. of the council of Md., 1669-1682. Drowned in 1682. He married Elizabeth daughter of Gov. W^m^ Stone and left issue, which is extinct in the male line. (2). Anne Calvert, who married 1° Baker Brooke (d. 1697), 2° Henry Brent (d. 1693), 3° Richard Marsham (d. 1713). She had issue only by her first marriage. Gov. Leonard Calvert's widow was living in Maryland in 1673 (Calvert papers, i, 297). [Dr. C. Johnston furnished these facts.]

[25b] Jerome Hawley (Neill, Founders 83; Streeter, 9 Fund Pubs. 108), son of James, of Brentford near London, is first heard of in 1615 where he seems to have had some connection with the trial of the Countess of Somerset for conspiring to poison Sir Thomas Overbury. He was later a sewer or superintendent of the queen's banquets. On Nov. 20, 1633, he made a will in England. He came to Maryland with his wife Eleanor, but returned to England in 1635, to defend Cornwallis's action in the conflict with Lt. Warren. There he remained over two years, conferred with the king on the tobacco trade and, early in 1637, was made treasurer of Virginia and appointed to receive the quit-rents in that province. He does not seem to have given up his connection with Maryland, nor his position as councillor, after his return to America, but sat in the Md. Assembly on Feb. 8, 1637-8, and signed the proclamation of Gover-

brother to the governor of Barbadoes, and Thomas Cornwallis[25c] were appointed commissioners and associated

nor Calvert on Feb. 12 against the Kent Islanders. He had returned to Jamestown by the middle of March and on May 8 wrote to Sir Francis Windebank, complaining that Gov. Harvey had not restrained the Swedish vessels, the "Key of Calmar" and "Griffin," sent to establish a colony of that nation on the Delaware, though the vessels had refitted for 10 days at Jamestown. He states that he has "discerned some underhand oppositions made" against him and asks a warrant for fees and power to appoint deputies to view tobacco. About this time, Richard Kemp, Secretary of Va., bitterly complained against Hawley's commission in a letter to Baltimore (28 Fund Pubs. 152), stating that Hawley would rob both the governor and secretary of their remuneration. Before any result could come, Hawley died in July, 1638. Streeter suggests that the item for surgeon's bills in the administration account may point to some accidental injury. Administration was given Cornwallis (4 Md. Arch. Prov. Ct. 101) and inventory rendered Apr. 20, 1639. Jerome Hawley had among his brothers: Henry, the governor of Barbadoes; William, who acted as his deputy, in 1638 removed to Maryland and signed the Protestant Declaration in 1650; and James of Brentford. (Brown's Genesis of the U. S. 911). The last wrote to William, July 30, 1649 (4 Md. Arch. Prov. Ct. 503-505; Neill, Founders 85), sending proof that Jerome was indebted to him, authorizing William to collect the debt, and stating that Cornwallis seized on the estate, "pretending that he was indebted unto him, but I am informed it was only doubtful pretence to defaud me." He speaks of Jerome as having left but one daughter, who is in Brabant.

[25c] Thomas Cornwaleys or Cornwallis was as distinctly the military leader of Maryland, as Miles Standish was of Plymouth. He alone was known as "the captain" and so well off in this world's goods was he that in 1641 he paid one-fourth of the tax levied on St. Mary's County. (See 18 Fund Pubs. 176, Streeter's papers relating to Early History of Md., 9 Fund Pubs. 124; Neill's Founders 69; Neill's Eng. Colonization 251.) He was second son of Sir William Cornwallis grandson of Sir Charles, ambassador to Spain, and great-grandson of Sir Thomas, comptroller of the household of Queen Mary. He was born in 1603, and died in 1676 at Burnham Thorpe, Norfolk Co., England, where his residence is said to have been called Maryland Point, from his experience in the province. Neill wrongly thinks he was a Protestant (28 Fund Pubs. 172 proves him to be a Roman Catholic). Streeter describes him as "one of those individuals, whose presence is desirable in any community, but all important in a colonial enterprise, who self-confident, cool in the hour of danger, firm, frank and determined, make their mark in a community and become, without special effort on their own part, formers of public opinion and centers to which all eyes turn, in cases of emergency & doubt." In 1640, he finished a substantial brick house, the best in the colony, and visited England, probably on business concerning the settling of Jerome Hawley's estate. His first wife had been attending to his affairs in England in 1638 (28 Fund Pubs. 170). In Dec., 1641, he returned, in a ship com-

with Leonard Calvert as the nucleus of the Council.[26] Cornwallis became a prominent inhabitant of the province. Hawley became later treasurer of Virginia, and died in 1638.

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manded by Ingle, and soon had 4000 acres of land laid out for him on Potomac River "upward of Port Tobacco Creek." His manor, Cornwalleys' Cross, was plundered by Ingle in Feb., 1645, and much valuable plate and furniture taken. Cornwallis had sailed for England, in April, 1644, and remained there until 1652, when he returned to Maryland to demand compensation for injuries done his property during Ingle's revolution. He then filed a list of servants brought into the province by him, to secure the amount of land due him. From this list, we learn that he brought in 12 in the Ark and received 5 more from the death of his partner, J: Saunders (vide 4 Md. Arch. Prov. Ct. 14). In 1634, he brought in 4 from Virginia, one of whom was Cuthbert Fenwick; in 1635, he brought in 9, one of whom was Zachary Mottershead. Five more in 1636, 5 in 1637, 9 in 1639, 5 in 1640, 12 in 1641, 1 in 1646 and 7 in 1651, make a total of 77 persons whom Cornwallis brought to Maryland within 20 years. (Five names may be in the 17 in the Ark or may be additional ones. In that case the number would be 82). Rightly could he say that: "It is well known he hath, at his great cost & charges, from the first planting of this Province, for the space of 28 years, been one of the greatest propagators & increasers thereof, by the yearly transportation of servants, whereof divers have been of very good rank & quality, towards whom & the rest he hath always been so careful to discharge a good conscience in the true performance of his promise & obligations, that he was never taxed with any breach thereof, though it is well known & he doth truly aver it, that the charge of so great a family as he hath always maintained was never defrayed by their labor." (Md. Arch. Ass. 463, Petition of Cornwallis Sept., 1663.) On his return to Maryland, he continued to have bricks delivered him in each of the next two years and was probably planning a house on the Potomac above Potopaco. In 1654, he again visited England and there married, probably in 1657. He came to Maryland with his young wife early in 1658 and took up 1000 acres of land in Kent County (9 Fund Pubs. 203) on Aug. 16, calling the tract Cornwallis's Choice. On June 2, 1659, he sailed for England, leaving his ample estate in the care of Mr. Richard Hotchkeys and, except for a possible brief visit in the next few years, no longer saw the province in whose early history he played so important a part. He well styled himself "one of the first and chief adventurers for the planting & inhabiting" the province. (Private correspondence of Jane, Lady Cornwallis 1613-1634, p. xxxix, London, 1842).

He had nine children: William, John, Thomas, b. Apr. 19, 1662, d. July 1731, Rector of Erwarton, Mary, Penelope, Penelope, Katherine, Penelope, Mary. His will was made Jan. 12, 1675 and proved March 4, 1676. His second wife Penelope Wiseman, daughter of John of Tyrrell's Essex was his executrix and died at Erwarton, Nov. 7, 1693, aged 57. (Brown's Genesis of the U. S. 863.)

[26] Relation of 1635, 65. This work is a second and enlarged edition of the Relation of 1634.

The son of Sir Thomas Gerard,[27] two sons of the Lady Anne Wintour, the son of Sir Thomas Wiseman, and nine other gentlemen are named as being in the expedition. Some of the lesser emigrants were lodged by Gabriel Hawley, Baltimore's deputy, with certain inn-keepers, while the vessels were preparing to sail, and a suit for their entertainment was brought[28] when the voyage was about to begin and may have been one cause of Lord Baltimore's detention in England. He wrote that there were about three hundred laboring[29] men and handicraftsmen in the vessel. We have no exact information concerning the religion of the party. It is certain that most of the gentlemen were Roman Catholics and that many of the yeomen and servants were Protestants.[29a]

The enemies of the expedition were vigilant. Rumors were carried to the Privy Council that Baltimore "intended to carry over nuns into Spain and soldiers to serve that king," and, when the Council laughed at these stories, the Attorney-General was induced to "make an information in the Star Chamber" that the vessels had gone without proper custom house papers and "in contempt of all authority," the emigrants "abusing the king's officers and refusing to take the oath of allegiance." On October 19, after the ship had already dropped down the Thames to Gravesend,[30] a command was sent, post haste, to the ad-

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[27] Richard Gerard, who went back to England in about a year, Edward and Frederick Wintour, Henry Wiseman. Relation of 1635, 65. Frederick Wintour died before 1638, and Edward shortly after him. Neill, Founders of Md. 49, 64; Brown, Genesis of the U. S. 1056.

[28] Coun., 3 Arch. 24.

[29] Browne, Md. 21; Neill, Founders of Md. 63. (Letter to Earl of Strafford.)

[29a] Johnson (18 Fund Pubs. 32) thinks that all the Catholics must have embarked at the Isle of Wight, points out that more than half (128 out of 200) took the oaths, and cites Father Henry More, who wrote a memorial from England to Rome in 1642, for support of the position that "by far the greater part were heretics." He also quotes a letter from Father White, dated 1641, stating that "3 parts of the people in 4 are heretics."

[30] Coun., 3 Arch. 23.

miral "guarding the narrow seas," to "stop the Ark, of London, Richard Low, master, Captain Winter being on board with a company of men for Lord Baltimore's new plantation in or about New England."[20a] The Ark was a vessel of 350 tons and a crew of about 40 men and had already carried the first Lord Baltimore's colonists[21] to Avalon. With it was sent a pinnace, the Dove, of about 40 tons. It is probable that both vessels were Calvert's property, and a deed[22] is extant, dated October 15, transferring one-eighth of the Dove from Cecilius to his brother Leonard. Cecilius is usually said to have expended £40,000 in equipping the expedition, but the colonists also provided for some of the expenses, and an agreement between Leonard Calvert and Sir Richard Lechford, dated October 7, 1633, shows that the two men had adventured the sum of £401.13.8 upon a voyage to be made into the province of Maryland. Of this amount, part or all of which was expended in providing "trucking stuff to be exchanged with the Indians for furs," Lechford furnished one-fourth and was to receive the same proportions of the profits, with a full account of the expenditures of the whole.[23]

The "London Searcher" caught the Ark and Dove and brought them back to Tillbury Hope, near Gravesend; there on October 29 gave the oath of allegiance to every one on board, in number about 128. No one refused it, and the master said that the only other persons who had planned to make the voyage were some few who had "forsaken the ship" and given up the plan, because of the

[20a] Neill, Founders of Md. 60.

[21] Neill, Founders of Md. 59. Browne, Md. 21.

[22] 35 Fund Pubs. 15.

[23] 35 Fund Pubs. 13. Calvert executed a bond on Oct. 19, 1633, to pay Lechford £50, if he did not sail from England by Christmas Day. Hindrance by command of court was no exemption from the penalty, which shows that Lechford feared some such interference. 35 Fund Pubs. 17. The oath of allegiance may be found in Neill's Founders of Md. 86; vide also p. 61-63.

delays. This report made it easy for Calvert to convince the Council that the Attorney-General was "abused and misinformed," and the ships were restored to "their former liberty."

Baltimore's Instructions to his Colonists

To this expedition, "well provided with all things," Calvert gave instructions, dated November 15, which show his wise and tolerant mind. A shrewd, far-seeing man, who, while devout in his religious life, was neither bigoted in faith nor subservient to his ecclesiastical teachers, Cecilius Calvert was well suited to be the Roman Catholic Lord Proprietary of a Palatinate, under a king whose realm recognized another church as its established faith. It was clearly impossible for him to establish his own church as the official religion of the province, and he wished to establish none other. While he was tolerant in disposition, his self-interest also pointed him to what was the only safe direction for his province's development. If he wished to retain his charter, to gain the financial profit which he hoped from Maryland, to make it an asylum for his co-religionists from the harshness of English laws, and to draw thither the greatest number of emigrants, it was clearly desirable that there should be no union of the civil and the ecclesiastical authority in Maryland and that religious liberty should prevail there from the foundation.

This cautious prudence led Baltimore to instruct the Governor and Commissioners,[84] first of all, that they "preserve unity and peace amongst all the passengers on Shipboard and that they suffer no scandal nor offence to be given to any of the Protestants, whereby any just complaint may hereafter be made by them in Virginia or in England." The Protestants must be treated "with as

[84] 28 Fund Pubs. 132. The original draft of this in Cecil Calvert's own handwriting, with his own corrections and interlineations is in the possession of the Md. Hist. Soc. J: Saunders, Cornwallis's partner, owned ⅛ of the Dove. 4 Md. Arch. Prov. Ct. 14.

much mildness and favor as justice will permit," all acts of Roman Catholic religion must be "done as privately as may be," and the Roman Catholics are cautioned to be silent upon all occasions of discourse concerning matters of religion. "These rules are to be observed on land as well as at sea."

It was feared that the Proprietary's enemies had "seduced and corrupted the mariners" and perhaps others of the company, so diligent inquiry should be made to see if information could be found "concerning the private plots of his Lordships adversaries in England." Any facts so ascertained, either on the voyage or after the arrival in Virginia, should be sent in writing to Baltimore, by "a trusty messenger in the next ships that return for England."

On arriving at Virginia, the colonists are to "avoid any occasion of difference with the settlers there," and to have "as little to do with them as they can this first year." Indeed, they must "connive and suffer little injuries from them, rather than to engage themselves in a public quarrel with them, which may disturbe the business much in England, in the infancy of it." So much was the hostility of the Virginians dreaded by Lord Baltimore, that he directed the colonists, on no account, to go to Jamestown, or to come within the command of the fort at Point Comfort, unless they should be "forced unto it by some extremity of weather (which God forbid), for the preservation of their lives and goods and that they find it otherwise impossible to preserve themselves." Rather they should anchor near Accomac, where there was no fort, and there try to find guides to the "Chesapeacke" Bay and the "Pattawomeck River," so as to discover a fit place in the new province to "set down on." In searching for this place, they must consider first, that it is "probable to be healthful and fruitful," next, that it may be easily fortified, and thirdly, that it may be convenient for trade, both with the English and savages.

While searching for this site, they were directed to send a trustworthy messenger, who should be a member of the Church of England, to carry the royal instructions to the Governor and Council of Virginia, as well as Baltimore's personal letter to Sir John Harvey. The messenger should also notify Harvey of the arrival of the expedition, tell him from Baltimore that he regrets the necessity of postponing his arrival in Maryland for a year, desires to hold a "good correspondency" both with Harvey and Virginia, and assures Harvey of his particular affection for him, arising from the reports of his worth, his friendship with George, Lord Baltimore, and the kind letters Harvey has sent the Proprietary, since he heard of Baltimore's intention to become his neighbor. A butt of sack is to accompany these good wishes.

With respect to Claiborne, Baltimore's policy was shrewd and peaceable. As soon as convenient, a Church of England man is to take him a letter, notifying him of the arrival of the colonists, and of the authority over the province committed to Leonard Calvert, Hawley, and Cornwallis, and inviting him, kindly, to come to them and speak with them on business of importance. If he come, writes Cecil, "use him courteously and well," and tell him that Baltimore is "willing to give him all the encouragement he can to proceed" in the Plantation he "hath settled within the precincts of his Lordship's Patent." Cloberry & Co.[35] have already approached the Proprietary and asked for a grant of Kent Island, but Baltimore has heard that there are "some differences" between Claiborne and them and refused to act until he could understand from Claiborne himself how matters stand between them and what he would desire of his Lordship in that plantation, which was "first begun and so far advanced" by Claiborne's care and industry, and partially

[35] The company included four or more men. 28 Fund Pubs. 135.

at his charges. Claiborne must be assured that Baltimore wishes to do justice to every one and is confident that Claiborne will conform himself to the Maryland charter, the duplicate of which and Leonard Calvert's commission should be shown him, if he desire this. While Cecil Calvert is thus conciliatory, he is not weak, and grimly adds, if Claiborne refuse to come, "let him alone for the first year," until the Proprietary can give further instructions; meanwhile they should inform themselves, as well as they can, of his plantation and what his designs are, strength he has and what correspondency he keeps with Virginia. They shall also learn the "present state of Virginia," informing Baltimore what trades they drive there, who are chief and richest men, whether their clamors against the Maryland charter increase or diminish, and whether these clamors proceed from any other reason than "spleen and malice." We shall discuss later other instructions as to the planters' conduct in the province.

The Voyage of the Ark and the Dove

After leaving Gravesend,[36] where they seem to have been detained for several weeks, the Ark and the Dove stopped at the Isle of Wight and took on board two Jesuit priests, Fathers Andrew White and John Altham (alias Gravener), and possibly others, whose scruples had prevented them from taking the oath of allegiance, or who had added themselves to the party in the last days of the delay in England. At last they were free, and set sail from Cowes about ten in the morning of Friday,[37] November 22, "with a gentle Northern gale." The vessels headed westward towards the Needles, but the wind died down so that they had to anchor at Yarmouth. They were

[36] 35 Fund Pub. 26.

[37] Evidently there was no superstitious fear of the ill luck supposed by some to follow enterprises begun on Friday.

not yet safe away and it was "secretly reported" by some of the seamen that letters were expected from the Privy Council to stop the expedition.[38] A strong wind, however, sprang up during the night, and driving a French bark from her anchorage, foul upon the pinnace, forced her to set sail and take to sea with the loss of an anchor. The ship, which had almost run aground by dragging its anchor in the strong wind and tide, followed, lest the vessels should part company, and on Saturday morning they passed the "dangerous Needles," it being the day of St. Clement, who suffered martyrdom by being cast into the sea, fastened to an anchor. By Sunday morning, the wind had served the company so well that they had passed the western cape of England. The Ark sailed slowly, lest the pinnace be left behind and fall a prey to Turks or other pirates, so that she could not race more than an hour with the Dragon, "a fair ship of London," of 600 tons, which overtook them during the day and gave them "great recreation" in the contest for speed. Monday night, November 25, a storm arose with a northwest wind and the pinnace, "mustering her strength, came up to us," writes Father White, who was in the Ark, "to tell us that if she were in distress, she would show two lights in her shrood." As the storm increased, the Dragon put back to Falmouth, and, about midnight, the pinnace showed the two lights and then disappeared. For six weeks the party in the Ark thought she had "assuredly been lost and foundered in those huge seas." The Dove had not been lost, however, but had put back to the Scilly Isles and later came in company with the Dragon and, under that "convenient guard," met the Ark at Barbadoes. As the day of the storm was consecrated to St.

[38] A petition had just been sent to the Council by "Sir John Wolstenholme and other planters with Capt. Wm. Claiborne in Va.," acknowledging that Kent Island was within the limits of Baltimore's patent, and asking that the island be not taken from them, but that they enjoy it with freedom of trade.

Katherine of Alexandria, the deliverance was doubtless attributed to her influence, and in her honor an island in the Potomac River was later named. Captain Lowe, of the Ark, a "sufficient seaman," having a ship "as strong as could be made of oak and iron," and one that made "fair weather in great storms,"[29] desired to try the goodness of the ship, on which he was making his first trip, and resolved to keep the sea, sailing close up to the wind with great risk of falling upon the Irish shore, so infamous for rocks of greatest danger. After that "frightful" night, the wind changed to the southwest, so that with many tacks the Ark scarce crept on her way until Friday night, November 29. Then there "poured forth such a sea of winds, as if they would have blown our ship under water at every blast." On Saturday, the clouds were so fearful and that, "ere it began to blow, it seemed all the sprites and witches of Maryland were now set in battle array against us," and the sunfish was seen to swim against the sun's course, a sure presage of storm. That night a "furious wind," following a heavy shower, tore the mainsail in half, before it could be furled, and the sailors themselves said they had seen ships cast away in less violence of weather. The devout men fell to prayers, confession and vows to the Virgin Mary, St. Ignatius, the patron saint of Maryland, St. Michael, and all the guardian angels. The captain bound up the helm, and "without sail or government" the ship floated like a dish, till God were pleased to take pity upon her. All night long they were in fear of imminent death, "and never looked to see day in the world," but the storm passed and good Father White felt assured, by this deliverance, of God's mercy towards them and "of those infidels' conversion in Maryland."

In these days of ocean steamships, it is difficult for us to imagine the discomforts of those long early sailing

[29] Father White means that she rode smoothly.

voyages. The Ark was at sea only seven weeks and two days, which was "held a speedy passage," but the whole voyage took a little over three months, owing to the stops in the West Indies. Direct sailing across the ocean was almost unknown then and the West Indies were the half-way house from Europe to America. During the three months' after the storm, the Ark "had not one hour of bad weather, but so propitious a navigation as our marines never saw so sweet a passage." In general, the company was well during the voyage, and until Christmas only suffered from seasickness. The celebration of that day included giving wine to all on shipboard, which "was so immoderately taken as the next day 30 sickened of fevers, whereof about a dozen died afterward."[40] Sailing southward with "winds nor good nor very bad," watching for Turkish pirates but seeing none, though they once mistook three merchantmen sailing to the Canaries for such, Leonard Calvert began to be solicitous for freight homeward, fearing lest they should come to Virginia too late for a cargo and that the "Virginians would stand but our heavy friends." So he thought of sailing to Bona Vista, one of the Cape Verde Islands of Africa. Before they had gone far, however, Hawley and Cornwallis, seeing that the profit of this excursion "redounded to Lord Baltimore," and that their "land provision" would likely be "spent in the circuit," induced Calvert to ask the purser how much bread was aboard. Finding supplies were running short, the Ark's course was directed to the Barbadoes, "the granary of all the Charybbees Isles." They were afraid to await their arrival in Maryland to obtain such supplies, since they expected little from the Virginians but blows, and that Governor Harvey "would do us little good, being overawed by his council," while

[40] Amongst those who died was Mr. Nicholas Fairfax, a "Catholic venturer," and a "very faithful servant of my Lord," Mr. James Barefoot.

the savages would probably be found "as our English ill-wishers would make them." At Barbadoes, where Mr. Hawley's brother was governor and his brother-in-law, Mr. Acers, was deputy, the Ark arrived on January 3. Unhappily, the governor and council formed a combination against the voyagers and raised the price of everything, so that "it cost us our eyes," as Father White said. At Barbadoes, they were told they escaped the Spanish fleet by not going to Bona Vista, and that a conspiracy on the part of the slaves to revolt, seize the first vessel that came and then put to sea in her, had just been discovered. Thus the Ark had escaped two dangers. At Barbadoes, the Ark remained until January 24, during which time the Dove came into the harbor. By this delay, the Ark avoided the Spanish fleet, which made an attack on St. Christopher's, and Father White felt that God, to whom the spiritual good of Maryland was dear, had preserved them from danger.

The narrative of the voyage is filled with accounts of the strange fish, birds and fruits which the voyagers saw, and of the legends of the islands at which they tarried. Sailing from one island to another, on January 29, they arrived at St. Christopher's and stayed ten days there, taking in water and supplies, and finally they arrived in Virginia on February 24. Disobeying their instructions, they anchored at Point Comfort, "under command of the Castle."[40a] There they remained eight or nine days, to land some passengers and deliver the letters to Sir John Harvey, "not without imminent danger," as Father White thought. Governor Harvey showed the expedition the best usage the place afforded, and promised to furnish them "with all manner of provisions, cattle, hogs, corn, poultry, and fruit trees, as well as bricks and tiles for the Lord Proprietary's seat, though much against his council's will." White thought that Harvey did this in the

[40a] 35 Fund Pubs. 20 and 38. Relation of 1634, 6, 7.

hope that, in return, he would obtain Baltimore's assistance in procuring a great sum of money due him from the royal exchequer. While there, Claiborne met them and told them "that the Indians were all in arms to resist us, having heard that 6 Spanish ships were a coming to destroy them all." White dryly remarks: "The rumor was most like to have been from himself."

The Landing in Maryland

On the 3rd of March the Ark and the Dove entered the Province of Maryland at the mouth of the Potomac River.[41] The colonists were now in "the country we so looked for," and thought the Chesapeake Bay "the most delightful water" they ever saw, "between two sweet lands." Calvert chose the southernmost river to "set down in," and changed its Indian name, Potomac, to St. Gregory's. Father White thought it "the sweetest and greatest river I have seen, so that the Thames is but a little finger to it, there are no marshes or swamps about it, but solid firm ground with great variety of wood, not choked up with undershrubs but commonly so far distant from each other as a coach and four horses may travel without molestation." The tiresome voyage was over and these joyful reports were sent within a month after the settlement from one who felt that they were now in "our own country." The hostile rumors spread by the Virginians caused the Indian king of Piscataway to draw together many bowmen[42] and to light signal fires by night to rouse the tribes against these strangers, who came in a "canoe" as big as an island, so different from the pinnaces which usually traded in the river. Slowly the vessels sailed up the Potomac to the Heron Islands. The island on

[41] They called the southern point Cape St. Gregory, now Smith Point, and the northern point Cape St. Michael's, now Point Lookout.

[42] Father White guesses 500; Relation of 1634 says 1500.

which the colonists first landed has been thought by many to have been that now known as Heron Island, almost submerged, but the language of the narratives, when carefully studied, seems to show that the settlers knew a group of several islands as Heron Islands, the name being later restricted to one of them. The other three were St. Clement's, now called Blackiston's Island; St. Katherine's, which yet bears that name; and St. Cecilia's, now called St. Margaret's.[45] All three of these were evidently named from the fact that these saints were patrons of the first days of the voyage. The identification of St. Clement's Island seems fully proven, and is important, as there the first landing of the colonists took place. As the island was surrounded with shallow water, the only way of reaching the shore was by wading, and a shallop, which had been sent to the island that the voyagers' clothing might be washed, was unfortunately overturned as it returned, by which mishap "the maids which had been washing" were almost drowned and much of the linen was lost, "no small matter in these parts." The record of this misfortune, however, assures us that cleanliness has been held next to godliness in Maryland from the earliest times.

The island was estimated by Father White to contain 400 acres, though it probably was much smaller, as it was returned by the surveyor in 1639 as containing only 80[46] acres. In any case it was too small for the seat of Calvert's colony, and it was intended rather to erect on the island one of two forts to command the river, which was there narrowest. The other fort should be on the mainland over against it, and thus the Potomac should be kept from foreign trade for the sole benefit of Baltimore and his subjects. The island on which this first landing took place is described as covered with "poki-berries," which are "wild walnuts, hard of shell but with a sweet

[45] Thomas's Chronicles of Colonial Md. 13.
[46] Thomas's Chronicles of Colonial Md. 15.

kernel," acorns, black walnuts, cedar trees, sassafras, vines, salad-herbs, and the like.

The settlers took a large tree on this island, and making it into a cross,[46] the Governor and commissioners, with the rest of the chiefest adventurers, carried it to a place prepared for it. There they erected the cross, celebrated the mass, and took "solemn possession of the Country for our Saviour and for our Sovereign Lord the King of England." This was done on Tuesday, March 25, 1634, "Our blessed Lady's day in Lent." With this religious ceremony begin the acts of the settlers. McMahon calls this day the "birthday of a free people,[46] worthy of commemoration to the latest day of their existence." This day "is identified with the origin of a free and happy State. It exhibits to us the foundations of government, laid broad and deep in the principles of civil and religious liberty. At a period when religious bigotry and intolerance seemed to be the badges of every Christian sect, and those who had dwelt under their oppressions, instead of learning tolerance from their experience, had but imbibed the spirit of their oppressors; and when the howlings of religious persecutions were heard everywhere around them, the Catholic and Protestant of Maryland were seen mingling in harmony, in the discharge of all their public and private duties, under a free government, which assured the rights of conscience to all."

Calvert's Potomac Voyage

At St. Clement's Island the Ark was left,[47] while Leonard Calvert, taking the Dove and another pinnace hired in Virginia, went four leagues up the river, both to explore the country, to speak with the emperor of Piscataway, and "declare to him the cause of the expedition."

[46] Relation of 1634, 8; 35 Fund Pub. 39.
[46] History of Md., p. 198, McMahon and many others seem erroneously to place this occurrence at St. Mary's.
[47] Relation of 1634, p. 9; of 1635, p. 6.

It was clearly necessary to cultivate good relations with the Indians, and when Calvert found the Indians fled from his first landing place, he went nine miles further up the river to "Patowmeck Town," probably at or near Aquia Creek. There he found the ruler, or werowance, was a child, and his uncle, Archihau or Archihoe, was regent.[46] The latter, "a grave and considerate man," gave them good welcome and listened with attention and seeming pleasure to the little discourse "touching the errors of his religion," which Father Altham gave, though the priest could proceed but little, as a Protestant, Capt. Henry Fleet, was the interpreter.[47] When Archihau, who was "of a very loving and kind nature," as Father White in his first enthusiasm judged that the Indians generally were, heard that the followers of Calvert came not to make war, but out of good-will to the Indians, and that they would soon come again to teach him further of the Christian religion, he

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[46] Relation of 1635, p. 6.

[47] 7 Fund Pubs. 34, but Relation of 1635, p. 6, says they met him at Piscataway. Fleet had been captured by the Indians near the site of the city of Washington as early as 1621 and, on his return, seems to have spread abroad marvellous tales. By these representations, in Sept., 1627, he induced Wm. Cloberry to place the Paramour, a vessel of 100 tons, in his charge. On July 4, 1631, he sailed as factor of the ship, Warwick, from London for America; he visited New England and the Chesapeake and traded with the Indians there. He then returned to New England and traded, but came to Accomac on May 13, 1632. There he met Claiborne and, after a visit of 3 days, went with him across the Chesapeake and came to the town of Yaocomico, where he had lived with the Indians several years and which place he had visited the year previous. After trading along the Potomac for 3 months, he was arrested by Capt. John Utie for illicit trading. Fleet was brought before the Governor of Virginia. Some arrangement was made by him with Gov. Harvey, by virtue of which he retained the vessel for three years, though the owners maintained they had only given him commission for a year. After the Md. colonists came, on May 9, 1634, he was assigned 2000 acres on St. George's River, later known as the Manor of West St. Mary. Fleet later removed to Virginia, sat in the assembly there in 1652 and received a patent to trade in partnership with Claiborne in that year. He is last mentioned as an interpreter in 1654 (Neill, Founders 2ff.; Fleet's Journal of that voyage of 1631-2 is in Neill, Founders 19ff.; see 9 Fund Pubs. 65; Brown, Genesis of U. S. 892).

answered, "That is just what I wish. We will eat at the same table; my followers, too, shall go hunt for you and we will have all things in common." Leaving Potomac Town, Calvert and his pinnaces went twenty leagues further to Piscataway, the seat of the emperor. There he found the inhabitants assembled in arms to the number of several hundred. When signals of peace were made and Fleet had gone ashore "to invite the werowance to a parley," the Indian ruler, more fearless than the rest, "came aboard the pinnace with several attendants and was courteously entertained there." Calvert told him that they came to teach the Indians a "divine doctrine," whereby to "lead them to heaven," and also to bring to them the blessings of civilization, and asked him whether he "would be content" that Calvert and the colonists should "set down in his country," in case a convenient place should be found.[50] The werowance diplomatically replied "that he would not bid him go, neither would he bid him stay, but that he might use his own discretion." While the conversation continued, the Indians on the shore feared that harm was being done to their ruler. Perceiving this, the werowance commanded two of his retinue to go on shore and disabuse the tribesmen of their fear. They replied that they feared they should be killed, returning without their chief, whereupon he showed himself on deck and satisfied his people, telling them he was in safety. It was a picturesque scene, the two pinnaces of the Marylanders and three barks belonging to Captain Fleet lay in the Potomac, and on the north bank clustered the crowd of suspicious savages. The emperor was satisfied,[51] and Calvert returned to St. Clement's Isle, "viewing many parts of the shore on each side of the river, by the way, but not finding any where a field cleared and left by the Indians," which could be used for the settlement. During the expedition, the party left on

[50] Relation of 1635, p. 7.
[51] 35 Fund Pubs. 21.

board the Ark, among whom was Father White,[52] was busy in putting together the barge which had been brought in pieces from England, felling trees and cleaning pales for a palisade. The Indians gradually laid aside fear, came to the guard, which was kept night and day, and finally came on board the ship, expressing great wonder at its size and at the thunder of the ordnance.

The Founding of St. Mary's

When Calvert had returned to St. Clement's, he resolved to take Fleet's advice and drop some nine leagues further down the Potomac to look for a site. Fleet was a most useful assistant, with his extensive knowledge of the country and the great esteem the aborigines had for him, because of his residence and trading many years among them. To win him from his opposition[53] to the new government, Calvert offered him a proportion of the beaver trade, if he would serve the Proprietary. Accepting this offer, he led Calvert in a barge to "a most convenient harbor and pleasant country lying on each side of it, with many large fields of excellent land, cleared from all wood."[54] This place was on a river, which they called St. George's, but which we now call St. Mary's, four or five leagues from the mouth of the Potomac.[55] It was known as the Town of Yaocomico, which was also the name of an Indian tribe dwelling there. It was a very commodious situation for a town, for the land was good, the air wholesome and pleasant. "Ships of any burthen" could lie in the harbor, which had a "bold shore." There was abundance of timber and fresh water and the place could easily be fortified.

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[52] Relation of 1634, p. 11.

[53] He had been a fire-brand to inflame the Indians against us, writes Father White, 35 Fund Pubs. 40.

[54] 35 Fund Pubs. 21.

[55] St. George's River is now only applied to what Calvert called St. George's Creek. Thomas's Chronicles, 16.

Calvert went on shore there and, meeting the werowance, told him the reason of his coming. The werowance, with the characteristic taciturnity of the Indian, "made little answer," but entertained the party over night in his own wigwam, giving Calvert his own mat on the board floor for a bed. The next day, the werowance showed Calvert and his party the country, with its fresh-water streams and springs.[56] Calvert was so pleased that, determining to make the first colony there, he ordered the ship and pinnaces to come thither. To make this entry peaceable and safe, he presented the werowance or chief and the *wisoes* or elders of the town with axes, hoes, knives and some English cloth, such as is used in Indian trade. Accepting these kindly, they freely gave consent that Calvert and his company might live in one part of the town, surrendering their houses and some corn they had begun to plant there. They also promised to leave the whole town at the end of harvest, while the parties to the treaty made mutual promises to each other to live friendly and peaceably together and, if any injury should happen to be done on any part, that satisfaction should be made for the same. Thus honorably began Maryland's relations with the Indians, and, in general, the record of the province is as honorable as its beginning.

Thirty miles of ground were bought at this time, and the high-sounding name of Augusta Carolina[57] was given it, but the term was but little used, and was soon superseded by that of St. Mary's county, derived from the name of the first settlement. To the bay on which the town was situated and to the town itself, the name of St. Mary's was given in honor of the mother of Jesus Christ.

Three days after the conclusion of the treaty, the Ark and the pinnaces anchored in St. Mary's Bay, and on the

[56] It is noted that the main rivers are salt. Relation of 1635, p. 9.
[57] Cf. Prov. Ct., 4 Md. Arch. p. 17.

next day the settlers began to prepare for their houses.[58] Historians, following the relation of 1635, have commonly assigned the date of March 27, 1634, as that of the founding of St. Mary's. A careful examination of Father White's narrative and of the Relation of 1634, the earlier accounts, show that on May 27 the planters had been at St. Mary's only a month, and so must have come in April. They built first of all a "Court of Guard" and a storehouse, sleeping on shipboard until these should be completed. The Indian chief dwelt on the left-hand or northern side of St. Mary's Bay, which is now called Church Point, while the colonists landed and laid out the town a little back from the water on the right-hand or southern side,[59] now known as Chancellor's Point. There, within a palisade of 120 yards square with four flanks, they mounted one piece of ordnance and "placed six murderers in posts most convenient," a fortification, writes Calvert to his partner Lechford, "sufficient to defend against any such weak enemies as we have reason to expect here."[60]

While this was building[61] Sir John Harvey came to visit Calvert, and during his visit the werowance of Patuxent also came, and a meeting of the three dignitaries was held in the great cabin on board the Ark, Fleet and one Master Golding acting as interpreters.[62] At this time, Fleet told the Indian that none other should trade with the Indians henceforth but the settlers of Yaocomico, and that the Governor of Maryland was not a king, but a great and rich man and a brother of the "great man of all" who should come later. It seems also that Fleet told the others that the Indian had gotten the idea from Claiborne that the Marylanders were "Waspaines" or Spaniards. Certainly the story, by some means, had gotten afloat among the Indians. During the interview, while the werowance sat

[58] Relation of 1635, p. 11.
[59] Thomas's Chronicles, 18.
[60] 35 Fund Pubs. 21.
[61] Relations of 1634, p. 13.
[62] Relation of 1635, p. 11; Coun., 5 Arch. 166. This Indian was not the head chief or "great king." Coun., Arch. 165.

between the two governors, one of his attendants came into the cabin, and fearing his chief was surprised, started and was "ready to have leaped overboard," remembering that the werowance had formerly been taken prisoner in Virginia.

While Harvey and the werowance were visiting Calvert, the store-house was completed and the ship unloaded. Remembering Baltimore's instructions, a formal ceremony took place, the colors being brought on shore,[88] attended by all the settlers in arms, both gentlemen and servants. The colors were received with a volley of shot, which was answered by the ordnance from the ships. Doubtless, then were read the charter and the Governor's commission, and a short declaration was made to the people of the Proprietary's intentions to endeavor the conversion of the savages to Christianity, to increase the King's empire and dominion in those parts, and do all he can for the good of "such of his countrymen as adventure their fortunes and themselves" in Maryland. Baltimore also wished the people to know that nothing but "unexpected accidents" had kept him from coming with the Ark and Dove, and that he trusted to come in another year. The werowance of Patuxent at that time warned the Indians of Yaocomico that they should carefully keep the league that they had made, saying: "When we shoot, our bowstrings give a twang that's heard but a little way off; but do you not hear what cracks their bowstrings (i. e., muskets and cannon) give?" When he left the place, several days later, he used many "Indian compliments," and said to Calvert: "I love the English so well that, if they should go about to kill me, if I had so much breath as to speak, I could command my people not to avenge my death, for I know they would not do such a thing

[88] 28 Fund Pubs. 136. Baltimore also directed all to take the oath of allegiance at this time. His lordship's secretary, John Bolles, should read the charter. I find no evidence that Bolles came to the province.

unless it were through mine own default."[64] The Yaocomicoes seem to have needed no advice to keep troth with the English. They felt the pressure of the fierce Susquehannocks or Susquesa-hanoughs from the north, who came often into their country "to waste and destroy," and had forced many of them to cross the Potomac to escape the raids. Seeing the English came so well provided with arms, the Yaocomicoes assured themselves of greater safety by living with the Maryland settlers. A few weeks before, the Indians were in arms against the English, with beacon-fires along all the banks, and now Father White writes that "they, like lambs, yield themselves, glad of our company, giving us houses and livings, for a trifle." Surely it was the hand of God. A few families of the Indians stayed during the whole of the first year and were of great use to the settlers. The men went daily with some of the Englishmen to hunt the deer, partridges, squirrels and turkeys, sometimes giving their booty to the settlers and again, especially if they were "of the meaner sort," selling it for knives and beads.[65] They also brought them great store of fish and oysters, and were said to have bartered them so much maize for truck that 1000 bushels were sent to New England to be exchanged for salt fish and other commodities. The Indian women and children came very frequently to the town, which fact was a certain proof of their confidence, and these squaws kindly showed the settlers how to prepare bread from the Indian corn bought at Barbadoes, which they used that they might "save their English provisions of meal and oatmeal."

In addition to building the palisaded fort and the houses,[66] the settlers at once began to plant corn and to set out gardens, sowing them with English seeds of all

[64] Relation of 1635, p. 12.

[65] The Indians provided game, before the white men dared to go into the woods or had leisure to do so. 35 Fund Pubs. 43.

[66] Relation of 1635, p. 14; 28 Fund Pubs. 139.

sorts. According to the Proprietor's instructions, they should build a convenient house for the seat of Lord Baltimore, or his governor in his absence, and send him a plat of it. They should also build a "church or chapel" adjacent to it. The pious Jesuits did not wait till this should be built, but took possession of one of the Indian cabins as the first chapel in Maryland, "having dressed it a little better." It was built in an oval form, 20 feet long and nine or ten feet high, with an opening in the roof half a yard square to let in the light and "let forth the smoke."

The instructions to Governor Calvert directed the planters to build their houses "near adjoining" one another, on regular streets, with gardens back of them. As soon as possible, the land necessary to be assigned to the adventurers should be surveyed[87] and allotted, according to the conditions of plantation. These allotments Baltimore promised to confirm by patent, and he merely asked for himself that his land be selected first, without making any "difference of proportion" between him and the other adventurers. These conditions of plantation provided that any Englishman who transported himself, properly equipped,[88] which equipment was duly itemized and with transportation charges was estimated at £20, should receive for himself in freehold estate 100 acres, with the same amount for his wife, 50 acres for each child above 16 years of age, and 50 acres for each woman servant under the age of 40 years, paying a quit-rent of 12 pence in the commodities of the country for every 50 acres.[89] For each male servant between the ages of 16 and 50 years so transported, 100 acres should be given on like conditions, while for every five men transported, the adventurer received not 500, but 1000 acres, to be

[87] Robert Simpson was the surveyor. 28 Fund Pubs. 138.
[88] The itemized list of requisites is very interesting. Relation, 1635, p. 46.
[89] A woman might transport herself or children on like conditions.

erected into a manor with all the privileges of the English ones. Baltimore did not intend his plantation to be purely an agricultural one, but directed his brother Leonard to search for a convenient place for the making of salt, and to find whether there is proper earth for making saltpetre as well as probability of iron or other mines.[70]

Beginnings of the Provincial Trade

While these matters were being attended to on shore, the Dove was following the "trade of beaver through all parts of the precincts of this province."[71] By reason of their late arrival, the adventurers lost the first part of the trade, for the Virginians had traded for 3000 skins, while the Marylanders took in only 298, weighing 451 pounds, together with 53 muskrat and 17 other skins. A small boat which was sent to "gather what scattering skins were to be had among the Indians," came back with a few in May, on the 30th of which month, Leonard Calvert wrote to his partner Lechford, from Old Point Comfort, telling him of the colony's experience hitherto. Though the return from their venture was small, Calvert is much encouraged for the future, for he thinks he can obtain a large part of the trade of the Massawomecks, who dwell ten days' journey to the north and formerly traded with Kirk, but now promise to come to St. Mary's, which is nearer them by half. Therefore, Calvert urges that there be sent double the amount of truck previously ventured. The quantity they "brought over last is nothing," Calvert wrote, compared to the possibility of the trade, and "there is nothing does more endanger the loss of commerce with the Indians than want of truck to barter with them."

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[70] 28 Fund Pubs. 140.

[71] 35 Fund Pubs. 21. The Proprietor seems to have had a moiety of the trade and Fleet was given ⅙ interest in it. He borrowed 100 weight of beaver from Justinian Snow, factor for the adventurers, and there was some difficulty as to the repayment. 4 Md. Arch. Prov. Ct. 5, 7.

With the letters of Leonard Calvert came the copies of Father White's Narrative, which was dated May 27, and on the arrival of the ship, about the middle of July,[73] Baltimore hastened to publish the 1634 "Relation of Maryland." He must have been delighted to spread the news that the maize which his adventurers had planted was already "knee[74] high" when the letters were written; that they thought, with proper wine presses and skill, they could make a ton of wine from the wild grapes on vines about the plantation; that they sent what they thought was iron stone, and that they had already procured 100 hogs and 30 cows from Accomack. The soil was so excellent[74] that one could not set down his foot without treading on strawberries, raspberries, fallen mulberry vines, acorns, walnuts, sassafras, "even in the wildest woods." The ground is commonly a "black mould above and a foot within ground of a reddish color." The country abounds with "delicate springs" and "birds diversely feathered there are infinite, as eagles, swans, hernes, geese, bittern, ducks, partridge, red, blue, party colored and the like, by which will appear the place abounds not alone with profit but also with pleasure." The site of St. Mary's is as noble "as could be wished and as good ground as I suppose is in all Europe."

The Lord Proprietary did not confine himself to the distribution of these pamphlets, but prepared to re-enforce his colony. Any one[75] who sent to the house of his brother-in-law, Mr. William Peasley, in Drury Lane, could "learn the certain time, when any of his Lordship's company is to go away," that he might join himself thereto.

Early in 1635 a new edition of the Relation appeared with an enlarged account of the country, a reprint of Capt. John Smith's map of Virginia, and an English trans-

[73] 35 Fund Pubs. 46.
[74] 35 Fund Pubs. 45.
[74] Relation of 1634, p. 21.
[75] Relation of 1635, p. 49.

lation of the charter of Maryland. In this pamphlet, we are informed[76] that the Proprietary has ordered convenient houses to be set up at St. Mary's, where all strangers may at their first coming be entertained.

During the summer of 1634 Calvert sent the Dove with a cargo of corn to Boston to trade for fish and other commodities. Winthrop notes the arrival of the vessel at Boston on August 29, with near all the company sick, and that the merchant died within one week afterwards. The Dove remained at Boston until October, and the seamen gave the austere Massachusetts men some trouble, reviling them with such terms as "holy brethren" when they came on board, and cursing and swearing "most horribly." The magistrates notified the Master that, as the disorders were committed on board ship, he ought to punish the offenders and requested him "to bring no more such disordered persons among us."[77]

Meanwhile all had not gone smoothly in Maryland and the planters had reason to obey the instruction[78] to be "mustered and trained in military discipline," and that they "cause constant watch and guard to be kept." We are ignorant of what happened at the conference between Calvert and Claiborne in Virginia, but we may be sure that the latter did not agree to submit to Baltimore, for, at a meeting of the Virginia Council, held on March 14, shortly after the Ark had sailed for the Potomac, Claiborne asked how he should "demean himself in respect of the Lord Baltimore's patent and his deputies." Though Harvey was present,[79] the Council answered that "they wondered why there should be any such question made," and that "they knew of no reason why they should render up the right of the Isle of Kent, more than any other formerly given to this colony." The validity of Bal-

[76] Relation of 1635, p. 64.
[77] 1 Winthrop 139, 145.
[78] 28 Fund Pubs. 139.
[79] There were nine men present in all. Coun., 5 Arch. 164.

timore's charter had not yet been decided in England, therefore they must maintain the rights and privileges of Virginia. Yet in obedience to the royal instructions, the Virginians would "observe all good correspondency" with the Marylanders, trusting that the latter would not intrench upon Virginia's interests. At the bottom of it all lay the question of the Indian fur trade, and we can imagine the anxious converse of Calvert and Harvey on the matter, during the visit of the latter to St. Mary's.

Kent Island Settlement

Let us look back a little and see what was the position of Claiborne and his settlement on Kent Island at this time. After receiving the Scotch license to trade, in May, 1631, Claiborne sailed at once for America in the ship Africa,[80] as we have seen, and landed at Kent Island on August 17. On the voyage and shortly thereafter, six of the ablest servants died and the rest, weak like all new men during the process of acclimatization of the first year in Virginia, were not enough to carry on the plantation and defend it against the hostile Indians, who had lately killed the Dutch at Zwanendael on the Delaware River. To guard against these difficulties, he hired certain freemen in Virginia, at least ten in number, mostly from the parts about Kecoughtan or Hampton, to go to the island with him and work for Cloberry & Co. These men later testified that they were paid less than the current rate of wages in Virginia[81] and far less than they would have taken from any one, to whom they did not bear such love and good-will as they did to Claiborne. As least 30 or 40 men were needed for the security of the plantation, and during the fur trading season, which lasted from the beginning of March until the end of June, it was necessary to have three or four shallops, or boats, out on the river,

[80] Coun., 5 Arch. 192, 197, 204, 220, 225, 232, 233.
[81] Coun., 5 Ass. 192, 198, 221, 226, 233.

each shallop manned by six or seven men. A less number, say four or five men, would have been in danger of being cut off by the Indians, as there would be no one to guard the arms in the boat, while the trading went on. An experienced trader like Claiborne, who knew the Indians and was liked by them "exceedingly," was able to make much greater profits than any new man could have made, especially in the early years,[82] before the competition of other traders became sharp and the price of beaver rose, as it did after Lord Baltimore's people came. They bartered not only for beaver from the Indians, but also for deer and other skins, for tobacco and corn. To provide for the plantation's needs, Claiborne brought from Virginia 28 to 30 neat cattle, a part of which was a herd of 12 cattle formerly the property of Sir Thomas Gates,[83] which Claiborne had left in care of his fellow-councillor, Capt. Thomas Purify, when he went to England in 1629. Their milk was a great nourishment to those on the plantation, and the herd had increased to about 150 head, when he went to England in 1637. So careful was he of the interests of the partnership servants that he reserved the milk for them alone, though the freemen who settled nearby would have given 100 pounds of tobacco yearly for the milk of each cow, which then sold for a shilling in money per gallon, and would have restored the cattle with increase at the end of the season, as is the custom in Virginia, for if "the grass on the island be not fed to cattle it wasteth, fadeth, and burneth away, becoming of no value."

There were hindrances to the prosperity of Kent Island in spite of his care and economy in payment for "trucking stuff, servants' apparel,[84] boats, housekeeping, servants'

[82] It was testified that he was more successful than Fleet or Hamor. Coun., 5 Arch. 194, 200, 224.

[83] Coun., 5 Arch. 192, 199, 206, 222, 226, 235, 238.

[84] At least £5.10.0 was usually allowed for this in Virginia. Coun., 5 Arch. 214, 223, 226, 227.

wages, allowance to the several ministers, guns, munition, surgery, expenses in journeys, buying of a stock of hogs, working tools and other necessaries." Within twelve days after the goods were unloaded on the plantation, and while he was absent from it, on October 18, 1631, occurred a disastrous fire,[86] which destroyed the store-house they had just built, consumed a great part of the servants' clothes, as the day was warm and they were abroad, spoiled most of the trucking stuff, melting the beads into lumps, rendering the knives and scissors worth little or nothing, melting the sides and bottoms of kettles, wasting the copper, and spoiling the axes and hoes. Yet with this "burnt truck" and what else he could scrape together, Claiborne bought, in 1631 and 1632, 600 or 700 beaver skins[86] and 1500 pounds or more of beaver in 1633.

One of the servants had died on the voyage, but we know the names of the 16 that survived and their occupations. Thomas Bagwell was the trader, John Belson was carpenter, and John Parr hogkeeper. Three men and a boy were employed in the kitchen,[87] to dress victuals, make bread from corn, and do other work in the house; Joan Young, the first woman resident in Maryland, was employed "to wash our linen." Henry Pincke was "reader of prayers," but this first religious teacher in Maryland "broke his leg[88] and was unserviceable." To the surgeon who set the leg was paid £4.3.0 or 250 pounds of tobacco on November 20, 1631, doubtless the first medical charge in Maryland. Six others, who were of the ablest men,[89] died within three or four months of the arrival, "largely

[86] Coun., 5 Arch. 204.

[86] Beaver was then worth about 6s and 7s a pound, but had much fallen by 1640. Coun., 5 Arch. 205.

[87] Henry East, Thomas Kendall, William Cocke and John Russell.

[88] Nearly every year Claiborne charges for "physic and chirurgery," or for "fruit, sugar, and spice for the sick." Claiborne clothed five of these servants.

[89] John Thompson, Philip Hamblyn, John Dunne, Christopher Fleming, John Butler, and Thomas Ivypland.

because of hardness endured by loss of goods & clothes" by the fire. The last servant, Richard Haulsey, was "thought by the men to have fyred the houses willingly & therefore, they would not endure him," whereupon Claiborne "sold his time, being a very untoward youth." In charge of this little company, in Claiborne's absence, was Arthur Ffiges as lieutenant, with a salary of £30 per year. In addition to the indentured servants, there were seven men[80] hired, either in Virginia or from among the passengers on the Africa.

Growth at Kent Island

In 1632, there were eight hired laborers and traders on the plantation, one new one being added to those employed in the previous year. In addition, we find Richard Popley, from whom Popley Island was named, as overseer of the men, a carpenter, a huntsman, and eleven indentured servants, of whom four are new men. Of the entire number, two are classed as hogkeepers, and several as traders. We note that Claiborne provided apparel for some of the servants and some of the hired laborers, and that the Rev. Richard James, first clergyman in Maryland, appears in that year. He received £60 as tithes for the year past, on March 24, 1632-3, and left the island in 1635, but his wife, Gertrude, remained for some years more. The little company seems to have been a fairly religious one, and we find charges in Claiborne's account for £2.5 on October 19, 1632, for Bibles and books of prayer in the house and boats, and on December 10, for a "black velvet cushion and black cloth for the pulpit," while on September 28, 1633, £3.7.0 were paid for "pewter dishes for the house of Jesus Christ," doubtless the first communion service in Maryland. Whether they built a special building for a church then we know not, but one

[80] At £3.10.0 per year. Tobacco was valued at 4d per pound.

was constructed in 1636. Claiborne wrote: "They built houses, palisaded a fort against the Indians, cleared the ground, planted corn and victuals, and tended hogs" during the years 1631 and 1632. The trading with the Indians, however, was the principal work, and frequent trips were made to Virginia for supplies. In addition to the small boats, a pinnace was kept out. Of this Thomas Butler was master with a yearly salary of £22.

Claiborne had written to England, immediately after the fire, urging the speedy sending of more supplies, but though these letters were received in January or February, 1631-2, Cloberry & Co. sent nothing for over a twelvemonth, and then an insufficient cargo was received in the Defence.[21] Meanwhile Claiborne had to live on the island, to regain the loss sustained by the fire, and so lost his Virginia offices, as he alleged, and also suffered "many wants and miseries, often lying on the ground and in the woods in extremity of heat and cold, & hath been shipwrecked & often been taken prisoner by the Indians & like to be slain by them, and hath lost the use of his right arm."

In the year 1633 we find the first record of an African in Maryland, for Claiborne paid on November 23, £1.5.0 "for a neger's service some months." Twenty-two persons were employed on the joint stock that year, there being a new indentured servant and a new maid, Joan Qually. That year they had a gardener and planted garden seeds and also 2000 plants of tobacco. It is interesting to read that Claiborne allowed the men a certain amount of tobacco every year "to drink."

A great hindrance was the failure of the English merchants to send truck, especially in 1632 and 1633. Then Claiborne could have bought several thousand skins more, had he been properly provided with truck for the boats he

[21] 5 Arch. Coun. 194, 201, 205, 207, 225. Cloberry & Co. sent over the Defence in February, 1632-3, with a cargo of iron, duffels, etc., valued at £170.

had fitted out. At times the Indians even had to take away beaver skins they had brought to barter. Not only was there lack of truck, but also of supplies for the plantation,[93] so that after waiting long in vain for them, Claiborne was necessitated to send to Virginia and purchase at greatly increased prices.[94] There was great want of ammunition also,[95] which not only hindered trade, but endangered the very life of the planters. At times the people were almost afraid to stir out of doors, two persons were killed and two more injured on one of the plantations near that of the partnership, and the people complained to Claiborne, while one shrewd fellow cut loopholes in all the houses and told the Indians loafing around that their treacherous schemes were discovered and that preparations were being made to shoot them, with the result that they departed.[96] In the Indian trade, too, it was necessary to allow the aborigines to toss over the goods, or they went away "with distaste." As a result they were "very tedious" in viewing the goods, and so much was stolen by the Indians and given as presents to them that no inventory could be kept and it was possible only for the men in the shallop to report on their return that they had bought so many skins and had so much truck left.[96a]

Claiborne and his Partners.

In 1634 the plantation was "much hindered and molested by Indians falling out with us and killing our men and by the Marylanders hindering our trade," as Claiborne wrote. Only six of the original indentured servants remained,[96] but 22 men were maintained on the joint stock throughout the year. Among the new names

[93] Coun., 5 Arch. 193, 199, 206, 223.
[94] Coun., 5 Arch. 193, 229.
[95] Coun., 5 Arch. 199, 206.
[96] Coun., 5 Arch. 190, 194, 201, 207, 211, 225.
[96a] Coun., 5 Arch. 190, 194, 200, 224.
[96] Claiborne says he bought 11, but this must mean hired.

is that of Thomas Smith, storekeeper, who received an annual salary of £20, and of whom we shall hear again. During the year Claiborne bought two quilted armor coats, and built the pinnace Longtail,[87] of which Thomas Cole was made master. On April 30, Claiborne recorded that they "paid our landlord in truck, for the purchase of our island." I am not sure of the meaning of this item, but the wonder suggests itself whether, after the Calvert party came, it was not thought wise by the Kent Islanders to strengthen their occupation tenure by a purchase of the land from the Indians. During the year, they planted Popley's Island, but were put from thence, either by Calvert's people or the Indians, in two or three months. There was considerable recrimination indulged in, later, by both Claiborne and Cloberry & Co., as to their relative responsibility for the hostility to Calvert. Cloberry & Co. maintained that the chief reason that the Maryland charter had been granted was, because Claiborne did not give timely notice of his proceedings in the Chesapeake, and that, after the grant, they had several conferences with Baltimore and might have made an arrangement with him, but that Claiborne wrote he did "wholly dislike" to have to do with "Jesuitical papists," such as Baltimore and his agents. To be dependent on him or his governors, he held to be intolerable, and believed that Baltimore's rights did not extend over Kent Island, as it was cultivated before the charter was granted, and probably was north of the 40th parallel of latitude.[88] Further, he reported that Calvert's party carried matters with a high hand and thought all men thieves and intruders but themselves, while "to make their actions look fairer in the eyes of cruel papists, they embroidered them with effusion of native blood." There is no recorded ground for this last

[87] A flag and "ancient" were bought for it April 10.

[88] See Sir Edmund Plowden's Description of New Albion in Neill, Founders, 56.

charge. Claiborne, on the other hand, said that he opposed Baltimore, chiefly because his London partners wrote him that they would rather lose all than come under Baltimore, and doubted not but that they could obtain a grant that would overthrow the charter of Maryland. Each accused the other of deceitfully approaching Baltimore.

About this time, either because of discontent with Claiborne or disgust with the whole enterprise, Thompson and Turgis sold out their shares to Cloberry, and Delabarr his to one Murehead. Claiborne later claimed that these transfers were not legal, for he never consented to the admission of the new partner. At any rate, because of the change in ownership or with a desire to check Baltimore's men, the English partners now took vigorous steps to fit out a new expedition.

In December, 1634,[99] the ships James and Revenge came over, the former bringing 30[99a] men and a cargo which Cloberry & Co. valued at £1138, and the latter seven men and a cargo valued at £311. Among the men were sawyers, smiths, carpenters and millwrights, to erect grist mills at Kecoughtan and Kent Island, but the supplies they brought were not sufficient,[100] nor of good quality, nor suited to the trade, so that the Indians would buy but little of the truck.

Calvert and Claiborne

Claiborne's greatest trouble was caused, however, by the arrival of the Maryland party. He tells us that, by proclamation[101] of April 8, 1634, they interdicted trade and surprised boats, some of which were out of their limits, which probably means they were near Kent Island. We have no other record of the proclamation, but it is probable enough. Probably about this time, Captain Fleet

[99] Coun., 5 Arch. 235.
[99a] Claiborne's account names only 22.
[100] Coun., 5 Arch. 194, 201, 205, 207, 225.
[101] Coun., 3 Arch. 32.

talked with Claiborne,[102] and "trading without leave got about 200 skins," and, as Lord Baltimore's men "feared, incensed the Indians against us." Because of the accusation brought against Claiborne of having told the Indians that Calvert's party were Spaniards,[103] and on June 20, at Patuxent, there was a meeting of four of the Virginia [103a] Council, with Claiborne, George Calvert and Frederick Wintour being present on the part of Maryland, to question the Indian chiefs as to the origin of the rumor. They admitted they had thought Calvert's party were "Waspaines," but denied that Claiborne had told them so, or that Fleet had truthfully interpreted what the werowance had said in the cabin of the Ark.[104]

Early in July, Capt. Thomas Young,[104a] with his ship, arrived at Point Comfort and, descrying a small bark, sent his lieutenant to learn news from her. She was Claiborne's boat, and, learning that he was on another ship, the lieutenant went thither and "fell in talk concerning my Lord Baltimore's company." He soon saw that troubles existed between the Kent Islanders and them, and "that a man might read much malice in Claiborne's heart towards Baltimore." On his return, the lieutenant brought Claiborne with him and he remained on Young's ship until morning. He said that Harvey had gone to St. Mary's to hear and compose the differences and had just returned for the same purpose with Calvert, Cornwallis,

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[102] 35 Fund Pubs. 40; 7 Fund Pubs. 35; Relation of 1635, p. 14.

[103] Coun., 5 Arch. 165.

[103a] Capt. John Utie, who came to Virginia in 1620 and settled later Spesutia Island in the Chesapeake; Capt. Samuel Matthews, who came to Virginia in 1622 and lived near Newport News, of whom we shall hear later; Capt. Wm. Price, and Thos. Hinton. Neill, Founders, 49.

[104] Fleet seems to have given some testimony under oath against Claiborne. 28 Fund Pub. 142.

[104a] 9 Fund Pubs. 285 contains letter of Capt. Thos. Young to Sir Toby Matthew, July 13, 1634, from Jamestown. Young was uncle to George and Robert Evelin. Another letter from him to Secretary Windebank follows, p. 300, concerning the Dutch on the Delaware.

Hawley, and other principal gentlemen of Maryland. Claiborne would not remain, but intended to retire to "his own plantation, under pretense that he went thither to take order for the securing thereof against certain Indians, who had lately, as he understood, killed a man & a boy of his." Young found him "subtile & fair spoken," but most bitter against "my Lord's company." He told Young he had, at first, borne good correspondency with them and furnished them with hogs and other provisions, until Calvert had given directions to take and seize him and his boats that went to trade and had accused him to the Governor of Virginia "for animating and conspiring with the Indians" to cut them off. Governor Harvey appointed certain commissioners from Virginia to join with Maryland commissioners to examine the truth of that accusation and they found it groundless. Now they come for a reconciliation, but Claiborne will not be present.

After Claiborne left him, Young visited Harvey in the other ship and found with him only Cornwallis, as Calvert fell sick by the way and returned. Taking Cornwallis aside, Young told him of the discourse with Claiborne. Cornwallis answered: "Claiborne dealt very unworthily and falsely with me. He labored to have the Indians supplant us, as we were Spaniards, & only Captain Fleet's persuasion prevented the Indians from attempting this. Not only confession of Indians but also that of Christians on oath proved the plot and some of the principal councillors of Virginia might justly be suspected of having abetted Claiborne to this foul practice." When Calvert complained to Harvey, he ordered Claiborne's arrest and confinement in the hands of Matthews and Utie, two of the Virginia Council, who were his "private friends." Harvey ordered them to take Claiborne to St. Mary's and meet Cornwallis and Hawley there, keeping Claiborne from any conference or messages to the Indians. From St. Mary's, they should go to the Indians and examine them in Claiborne's absence. Matthews, who

was "the person on whom the strength & sinews of their faction depends," and Utie did not intend to comply with Harvey's order, but "subtilely inveigled into their company[104b] two very young gentlemen," George Calvert and Wintour, and persuaded them "with fair words, finding them in a jovial humor," to "accompany them to the examination of the Indians." So Calvert and Wintour went as the Maryland commissioners, and also Claiborne came along, with a servant of his as an interpreter. While Leonard Calvert and Harvey waited them at St. Mary's, the examiners, in Claiborne's presence, asked the Indians such questions as would best serve his advantage and caused the interpreter to frame such answers from the Indians as best suited their purposes. Then they reduced the examination to writing and induced George Calvert[104c] and Wintour to sign the paper. This they sent to St. Mary's by one of the Virginia Council with the Indian King of Patuxent (Patterpunt) to justify the proceedings. Harvey was informed that they would await him at Kecoughtan, but found all gone when he came thither. Cornwallis added that there had been no attempt by Baltimore's party to seize Claiborne and that they offered him "all fair correspondence, with as full liberty to trade as themselves, but he refused it, wherefore the Governor gave order to forbid him to trade." We can clearly see the irreconcilable nature of the parties to the conflict.

Later in the season,[105] letters came from England both to Virginia from the Privy Council, and to Calvert from his brother, the Proprietary. The former, dated July 22, encouraged[106] the opposition to Maryland, as it assured the planters, for their better encouragement, that the revocation of the charter of Virginia had meant no impeach-

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[104b] He says Price and Hinton went without, or rather contrary to, order.

[104c] This probably explains the legend that he went over to Claiborne.

[105] Coun., 5 Arch. 168. [106] Coun., 3 Arch. 32.

ment of the interest of the individual planters. While this was nothing new, Claiborne solaced himself with the thought that it confirmed his right to a free Indian trade which the Marylanders had denied. Cecil's letter to his brother, dated September 4, directed him to seize Claiborne and to detain him a close prisoner at St. Mary's,[107] and that he also take possession, if possible, of the Kent Island plantation and hold both until further word. Eleven days later, Baltimore wrote[108] Secretary Windebank from Wardour Castle that, since the return of the Ark from Maryland, he had several times waited on him in London and now writes to express his thanks for Harvey's "noble and friendly manner unto me" and to send therewith, by Mr. Peasley, papers concerning Claiborne's "malicious" behavior. He also asks that a royal letter be sent to Harvey, commending his conduct, or, if there be not time for this, that Windebank himself write by the next ship to avert the danger of the overthrow of the Maryland plantation.[109] Windebank wrote the desired letter and the royal missive to Harvey soon followed. Unhappily, the effect of these letters was nullified through the efforts of Claiborne's English partners. Within a fortnight after the royal letter to Harvey, a petition from Cloberry & Co. to the King secured a letter under the royal signet which was sent to the Governor and Council of Virginia in the last ships leaving England that year for Virginia.[110] From the petition we learn that Baltimore's men had already shot at the men and boats of Cloberry & Co. trading in Chesapeake[111] Bay. Calvert was away from London and "brother Peasley" must have been napping, when "Lord Baltimore, as all other pretenders, under him,

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[107] Coun., 5 Arch. 168.
[108] Coun., 3 Arch. 25.
[109] Coun., 3 Arch. 26, 27.
[110] Coun., 3 Arch. 28, 29.
[111] Relation of 1635, p. 41. There is a story of a struggle between the Susquehannocks and Wicomesses on Kent Island in 1634, in which three out of a party of 5 of the former tribe as well as three of Claiborne's men and some of his cattle were killed by the latter.

or otherwise, to plantations in those parts" were prohibited from doing Cloberry & Co. any violence or "from disturbing or hindering them in their honest proceedings and trade in the Kentish Island near to Virginia," which they have planted and inhabited "by our commission." All officers in America were directed to aid and assist Cloberry & Co., that they may peaceably enjoy the fruits of their labor.

Harvey received the royal letter of commendation in December and answered it at once, expressing his gratitude, but regretting that his power is limited by the Council, in which almost all are against him in what regards Maryland. This faction, which he suspects is nourished from England, [illegible] has caused the common people to go so far as to say that they would rather knock their cattle on their heads than to sell them to Maryland,[112] while there are many meetings and consultations between Claiborne and the other members of the Council.

After the settlers had been in Maryland nearly a year, Calvert called an assembly of the "people inhabiting this colony of St. Mary's." As the proceedings are lost we know almost nothing of its transactions, but we are sure that it passed certain "wholesome laws and ordinances" for the welfare of the province and that among these laws was one of February 26, 1634-5,[112a] enacting that offenders in all murders and felonies should suffer the same punishment as would be borne by like criminals in England. Baltimore's claim to initiative in law-making, doubtless, led him to refuse to assent to the statutes.

Petty Warfare

Now begins a series of petty conflicts, invasions and naval battles which remind one of the struggles between the old Greek republics.

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[112] Coun., 3 Arch. 30. Harvey sent some of his own cows over.
[112a] Ass. 1 Arch. 23.

When the winter of 1634-35 wore to a close, Claiborne sent out the pinnace Longtail[113] to trade for corn and furs. Thomas Smith was in command of the vessel and he sailed right across the bay to Mattapany, on the Patuxent River, to beard the lion in his den and trade in the neighborhood of St. Mary's. On April 5, the day after the Longtail's arrival, Fleet, who had become reconciled to Calvert, with three others, came overland[114] and asked by what right Smith traded there. He replied, "By virtue of his Majesty's Commission and letter to Capt. Claiborne." Fleet read the copies which Smith had and said, "This does not license Capt. Claiborne to trade further than the Isle of Kent," while Capt. Humber, one of his party, added, "It is a false copy and grounded upon false information. Come, let us board them." Smith cried out: "You had best take heed what you do; it is ill jesting with paper which came from his Majesty," but Fleet refused to show his commission, entered the vessel and turned the crew on shore without arms. Smith asked for arms to defend himself and his men against the Indians, and Fleet retorted they were as safe as if they were aboard. That night the men slept in the woods and then they went on foot to "Maryland," as Claiborne's party called St. Mary's. Smith meantime was taken with Fleet in the small boat of the pinnace. When they came to St. Mary's, they found Calvert away and Cornwallis acting as his deputy. Smith made complaint to him that his vessel had been taken. "They did not more than what they had order for to do," answered Cornwallis, "to stop all vessels they should find trading in the Province."[115] After waiting two days, Calvert returned

[113] 28 Fund Pubs. 141-149.

[114] On the way to the river, at the Indian town, Fleet and his party seized Henry Ewbank, one of Smith's party, and carried him with them. 28 Fund Pubs. 146.

[115] Cornwallis said that Smith's credentials were probably forged, and at any rate only covered Kent Island.

and sent for Smith and his party at Cornwallis's house. The Governor then said he would keep the vessel and refused to return the men to Kent Island, though he offered to send them to Virginia or England. Smith refused this offer and said the Islanders were in want of corn. Calvert replied this could not be. After waiting four or five days and seeing no prospect of release of the pinnace, Smith asked for a boat with which to return home. This request was refused, but Calvert permitted Smith to make arrangements with Indians for transportation and so the Islanders were sent away with only one gun, which belonged to Smith, and without victuals. The treatment was harsh, undoubtedly, but it must be remembered that the Longtail was trading within the undoubted limits of Baltimore's territory and against his express orders.

After the seizure of the Longtail, a sort of petty warfare between the settlers of Kent Island and those of St. Mary's lasted for three years. Of the year 1635, Claiborne writes: "We did little good and had many hindrances from the Marylanders." Yet they built two windmills, buying stones from Virginia, as those brought from England proved to be unsuitable.[116] Claiborne disapproved of the policy of the Londoners to build mills, rape-oil and iron works, but seems to have entered heartily into the manufacture of pipestaves.

Meanwhile he wrote of a great trade and that the hogs and cattle increased rapidly. In five years he said he sent 5000 pounds of furs to England which were sold for £3500. With Alexander Mountney and John Smyth, he brought freemen to the island and planted "Craford,"[117] by which settlement, five miles from the main one, the island was better protected. In this year there were 38 persons on the joint stock, four of whom were millwrights and car-

[116] 5 Md. Arch. Coun. 228, 236.

[117] 5 Md. Arch. Coun. 212, 220, 237. Claiborne borrowed the company's servants and lent his in return.

penters, two smiths, one a sawyer, one a tailor, one a planter, one a gardener, one a seaboy, six woodcutters and laborers, three maidservants[118] in kitchen and dairy and four men were employed in the kitchen.

To retaliate for the loss of the Longtail, Claiborne sent forth Lieutenant Ratcliffe Warren in the Cockatrice with thirteen armed men, with orders to demand back that vessel and to seize and capture any of the pinnaces or other vessels belonging to the government of St. Mary's. When Calvert heard of this he fitted out two pinnaces, the St. Margaret and St. Helen.[119] The hostile vessels met in the Pocomoke on April 23, about a fortnight after Smith's return to Kent, and in the combat that followed, there were killed William Ashmore, of the St. Mary's men, and Lieutenant Warren, John Belson, one of the Africa's party, and William Dawson, who came to the island in 1634.[120] Three more of Claiborne's men were wounded.[121] This first inland combat between white men in American waters was alleged by the Calvert party to have been begun by the Kent Islanders and led to the trial of Smith and Claiborne by the Assembly in 1638. On May 10, Cornwallis, who commanded the Maryland pinnaces, seized Smith as a prisoner in the harbor of Great Wighcomoco, but he seems to have been released or to have escaped for the time, as he received payment from the joint stock on April 20, 1637, for trading.

Harvey's Overthrow

These stormy events created a great commotion in Virginia. In the preceding year, Capt. Thomas Young wrote

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[118] Joan Qually, Mary Martyn, Joyce Davis.

[119] 1 Scharf, 109; Neill, Founders, 51; Browne, 34; 5 Md. Arch. Coun. 169; 3 Md. Arch. Coun. 39.

[120] 1 Md. Arch. Ass. 17. Claiborne alleged that he sent word to Calvert to come and retake a boat, seized by Warren, filled with Maryland produce.

[121] 3 Md. Arch. Coun. 32.

from Jamestown to Secretary Windebank [122] that the "State wherein my Lord Baltimore's Plantation stands with those of Virginia" may "prove dangerous enough for them, if there be not some present order taken in England, for suppressing the insolence of Claiborne and his accomplices and for disjointing this faction, which is so fast linked and united, as, I am persuaded, will not by the Governor [123] be easily dissevered, or overruled, without some strong and powerful addition to his present authority, by some new powers from England. And it will be to little purpose, for my Lord to proceed in his colony, against which they have so exasperated and incensed all the English colony of Virginia, as here it is accounted a crime almost as heinous as treason to favor, nay, to speak well of that colony of my Lord's. And, I have observed, myself, a palpable kind of strangeness and distance between those of the best sort in this country, which have formerly been very familiar and loving to one another, only because the one hath been suspected to have been a well wisher to the Plantation of Maryland." When the feeling was such before the conflicts and when we learn that Governor Harvey was disliked by the Virginians for other reasons, we are not surprised to learn that four days after the skirmish, and, probably before news of it had come, a public meeting was held at the house of the Speaker of the Assembly at Yorktown to consider the Governor's conduct.[124] Harvey had upheld the seizure of the Longtail by the Marylanders, contrary to the express commands of the King, the people indignantly said, and had refused to read these commands to the Council, alleging that they were "surreptitiously gotten." The next day, the Governor called a meeting of the Council, wishing to have the petitioners of the day before severely punished. A violent altercation occurred, resulting in the arrest of Harvey for treason, in not deliver-

[122] July, 1634, 4 Series, Vol. 9, Mass. Hist. Soc. Colls.
[123] I. e., Harvey. [124] Neill, Founders, 52; Md. Arch. Coun. 34.

ing the Council the royal letters. A week later, the Council, led chiefly by Utie and Matthews, heard the "innumerable grievances" of the people and determined to choose a new governor, Captain John West, brother to Lord Delaware, and to send Harvey to England. The chief allegation against him was "that he was a Marylander, that is one that favored too much my Lord Baltimore's Plantation to their prejudice."[125] Believing that Harvey's encouragement was one reason for Calvert's vigorous action, the Virginians[126] sent Utie and Pierce to Maryland, with letters desiring Calvert and his Council to "desist from violent proceedings," and promising them "all fair correspondency on behalf of the inhabitants of the isle of Kent, until we understood his Majesty's further pleasure." Before the Virginians received an answer, Claiborne came, on May 23, asking for redress. Letters were dispatched to England at once by Richard Kemp,[127] Secretary of the Colony, and Samuel Matthews, on the part of the Council, telling why Harvey was sent home. Claiborne also wrote to Secretary Coke, complains bitterly of his "cruel neighbors, who have not only trampled over all rights but contemned the express commands of his Majesty, under the protection whereof I deemed myself so safe that I provided not enough against their violence and so perished by security," and asks for "speedy signification" of Charles's pleasure.

Sir John Harvey and these letters arrived in England on the 24th of June, after a quick voyage.[128] The Privy Council, on July 2, ordered both parties to come before the Attorney-General for examination. We have but little information as to the course of events. On July 14, Harvey wrote to Secretary Windebank that the chief charge against him was that he was about to betray the fort into

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[125] Correspondence of Earl of Stafford; Neill, Founders, 53.
[126] Neill says on May 7.
[127] 3 Md. Arch. Coun. 31-37.
[128] 3 Md. Arch. Coun. 38.

the hands of the Marylanders, the enemies of the Virginians, and that he fears they intend no less than the subjection of Maryland.[129] On the other hand, Governor West wrote the Lords Commissioners of Plantations,[130] on March 28, 1636; "Without infringing his Majesty's grant to the Lord Baltimore, we have taken the nearest course for avoiding of further unnatural broils between them of Maryland and those of the Isle of Kent." "This was done by putting under deep bond," to keep the King's peace both Claiborne "the Commander" of the Isle of Kent, and such of the Calvert party as come to Virginia. Constant watchfulness was needed in England. In 1635, Hawley returned thither, to justify Cornwallis's conduct in the skirmish on the Pocomoke and was called before the Privy Council on December 11, when Harvey was examined, and it was charged against Francis Rabnett, a servant of one of the Wintours, that he declared it was "lawful & meritorious to kill a heretic King." Hawley was then asked, if he had ever said "that he was come to plant in Maryland the Romish religion" "& utterly denied" this.[130a] He had to admit, however, that mass was publicly celebrated in the province.

The Coming of Capt. Evelin

The loss of the Longtail and the warfare with the Marylanders caused the Kent Island settlement to be in sore straits for corn, which they could not obtain from the Indians without boat or truck.[131] Philip Taylor of Accomack, trading for Cloberry and Murehead in the Potomac, was several times violently assaulted by the St. Mary's men with armed men, guns, and Indians, and his pinnace, boat and goods were seized, but in some manner he escaped, and in June brought a most welcome supply of corn to the plantation, probably in the new pinnace which Clai-

[129] 3 Md. Arch. Coun. 39. [130] 3 Md. Arch. Coun. 40.
[130a] Neill, Founders, 91.
[131] 5 Md. Arch. Coun. 190, 194, 200, 207, 214, 224.

borne bought in that month. Many writers have thought that the Kent Island settlement is shown by this dearth not to be an "established plantation, but rather a trading post,"[132] but a further examination shows that, while there was not enough corn raised to supply the settlement for the whole year, yet considerable planting was done, especially of tobacco and vegetables. The only other glimpse we have of Kent Island for the year is that the religious services on the plantation were kept up, and that, after Mr. James returned to England leaving his wife on the island, Rev. Messrs. Cotton and Hampton came over, each for about half of the time. Other independent settlers came and took up land, paying Claiborne a yearly rent of 2 capons therefor.[133]

In 1636, 29 men are recorded as having been employed on the joint stock account[134] and Claiborne adds: "This year our works were as other years in trading and planting, but especially were we employed in perfecting the mills. We framed two other mills, perfectly, so far as we could, ready to set up. We framed the church. We sawed divers stocks to boards." One of the men went to the Susquehannoughs, lived with them, was interpreter and helped the trade.

In this year, the London partners[135] sent over two vessels: the John and Barbara, and the Sara and Elizabeth, with a cargo of truck they valued at £3000 and 18 men. Cloberry and Murehead later testified that Claiborne had written them that he was coming to England to answer Baltimore's complaints and asked that another be sent to take possession of the islands and goods and that an accountant be also sent.[136] So Capt. George Evelin was sent

[132] Cf. Hall, Lord's Baltimore 43.
[133] 3 Md. Arch. Coun. 95.
[134] Joane Vizard, Mary Martin, Anne Matthews were the maids.
[135] In 1637, Cloberry & Co. are said by Claiborne also to have sent a vessel to Barbary.
[136] Claiborne said they asked him to come and Evelin was sent over without his consent.

as agent and commander of Kent and John Herriott as accountant. Herriott soon died and there was some difficulty about the sale of his goods, which it was alleged Claiborne had undervalued.[127]

One of the emigrants on the Sara and Elizabeth, Robert Turtle, testified that he found at the settlement; a fort, divers houses, windmills, and a smith's forge. At first, Evelin seems to have gotten along well with Claiborne and to have deferred to his experienced judgment in the employment of servants. Evelin was a nephew of Capt. Thomas Young,[128] of whom we have heard, and a brother of Robert Evelin, who had previously voyaged to the Delaware and later settled in Virginia. George Evelin was evidently acquainted with the Calvert family, was born in London, January 31, 1592/3 and married Jane, daughter of Richard Craney of Dorset[129] When he landed on Kent Island, in November, 1636, he is said to have spoken against the claims of Lord Baltimore and to have "alleged that Claiborne's commission from the King and the King's letter in confirmation thereof was firm and strong against the Maryland patent. The grandfather of Leonard Calvert was but a grazier, while Leonard himself, such a fellow as he, a very dunce and blockhead when he went to school, is come to this."

In February, 1636-7, a pinnace came up to Kent Island, bearing servants and goods which had been brought over in the Sara and Elizabeth and, on the same day, Evelin took a part of the truck and went trading to the "Potomeck" River. During this trip, Evelin seems to have gone to St. Mary's or Virginia, and an interview with Calvert which he had there changed his mind. Doubtless fear of this led Claiborne, in May, 1637, on the eve of

[127] 5 Md. Arch. Coun. 220, 239.

[128] 5 Md. Arch. Coun. 181. Neill, Founders, 54. S. F. Streeter wrote sketch of Geo. Evelin, very unfavorable to him, and published as 2 Fund Pubs. "The First Commander of Kent Island." The title is a misnomer, Claiborne was the first. Brown's Genesis of U. S. 888.

[129] 5 Md. Arch. Coun. 214, 230, 236.

his departure in the pinnace Elizabeth, to ask Evelin that they sign and deliver to each other mutual inventories [140] of the stock and that Evelin give him a bond not to deliver the Plantation, or Islands, or any part of them, to the Marylanders, or to any other, and not to remove any of the servants from Kent Island.[141] Evelin replied brusquely that he did not care to have an assignment of the lands and goods from Claiborne. He would have them, whether Claiborne would or no, for he had more to do with them than Claiborne had. With these words, he showed the power of attorney from Cloberry & Co. to Claiborne, for the first time.[142] Previously, Evelin seems to have acted as Claiborne's deputy, but now there was clearly nothing for the latter to do, but to leave the plantation unconditionally in Evelin's hands, as he did three or four days later. Evelin followed to Virginia in June, and going to Jamestown, showed his power of attorney from Cloberry and Murehead to the Governor and Council there. He was then permitted to take the pinnace Elizabeth and the other boats and property of the joint stock.[143] About midsummer, Evelin returned to Kent and took possession of all the partnership property. Claiborne's brother-in-law, John Butler, and Mrs. Gertrude James, with whom he had left a power of attorney as to his 1/6 of the joint stock, submitted without question. Evelin now "ordered and directed" the servants concerning their labors. He let some go free, others buy their time, and took ten of them, four of whom were carpenters, to Maryland to work on a manor, called Evelinton, at Piney Point on the Potomac, which had been granted him by Calvert.[144] He told one of the Kent settlers, that he intended to settle in Maryland [145]

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[140] 5 Md. Arch. Coun. 181, 195, 215. Claiborne said he brought over witnesses to England with him.

[141] 5 Md. Arch. Coun. 182, 195, 201, 215, 230, 237.

[142] 5 Md. Arch. Coun. 216.

[143] 5 Md. Arch. Coun. 211, 216, 227.

[144] 5 Md. Arch. Coun. 182, 195, 202, 207, 211, 216.

[145] It is noteworthy that the Kentish men always speak of the Western Shore as Maryland.

and that it would be better to live there than in Kent. Evelin also took with him many trees from the plantation garden and some 800 or 900 pounds of truck, as well as two frames of windmills. Another large portion of the truck, he disposed of to the inhabitants and freemen of the island and still another part was sent to Virginia, several trips being made to take the goods away.[146] It is true we have not a full defence of Evelin, but from what evidence we possess, Claiborne seems to be right in saying that, because of Evelin's conduct, the islands became "void and waste." The case is still stronger, if it be true, that the freemen on Kent Island would have been bound together to have bought the estate, with the 36 servants on it.[147]

Relations between Calvert and Evelin grew closer. The former bought cloth from the latter, with which he purchased corn from the Susquehannoughs, though the plantation on Kent Island was in need of corn.[148]

Growth of St. Mary's

During this time, we have little information as to the events at St. Mary's. Five Jesuits were laboring to learn the Indian languages and preaching to the white settlers. Impeded by illness, of which two of their number died in 1638, and not allowed by the rulers of the province to dwell among the aborigines, because of their hostile disposition,[149] their work was chiefly among the settlers. Many were induced to accept the Roman Catholic faith,

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[146] 5 Md. Arch. Coun. 184, 196, 202, 208, 212, 217.

[147] Mountjoy Evelin with some truck was left with the "King of Patomeck" to learn the language. 5 Md. Arch. Coun. 183. Brown's Genesis 888. He was Geo. Evelin's son. Robert Evelin, George's father, was in the Va. Company.

[148] 5 Md. Arch. Coun. 184, 190, 217. This shows that the Calvert party were not yet raising enough grain for their needs.

[149] They write that they slew a trader and conspired against the whole colony. The early priests were Andrew White, first superior, John Altham or Gravener, who preached at Kent Island, and died at St. Mary's Nov. 5, 1640, Philip Fisher, superior 1637 to 1640, John Brock, or Morgan, superior in 1640 and died in 1641, and Roger Rigby who died in 1646. (7 Fund Pubs. 110 ff.)

among them the Jesuits' four indentured servants, bought in Virginia, and their five hired servants. Some of the conversions, which were most remarkable, are reported in detail and even miracles were hinted at.[180] A number of indentured servants who were Catholics were bought in Virginia and were brought to St. Mary's through charity of the more zealous Roman Catholics. Several of the chief men were "formed to piety by spiritual exercise" and the attendance on the sacraments was large. Catechetical lectures and sermons were preached, the sick and dying were cared for. Father White brought in one Francisco, a mulatto, in 1635, and took up land for him as a servant.[181] This is the first slave owned in the province and, though a few others are recorded as brought in, for example, negro Phillis in 1648,[182] there were few negroes in Maryland before the beginning of the 18th century. In England, Baltimore was not idle. On December 22, 1635, he asked the

[180] 7 Md. Hist. Soc., Fund Pubs. 55 ff.

[181] 2 Bozman, 571. He speaks of this as "an incident apparently trivial; but, being connected with an awful misfortune which the State of Maryland seems to be destined to experience at some future day, demands some notice." John Knowles, an assistant in the mission, died of yellow fever Sept. 24, 1637. Thomas Gervase was temporal coadjutor till 1640; was he Thomas Copley? (7 Fund Pubs. 126).

Thomas Copley arrived in the province on Aug. 8, 1637. He was a priest but engaged in business and conducted the secular affairs of the mission. According to his claims, White and Altham brought in 28 servants in 1634, who were entitled to 6000 acres, and he brought in 19 for whom and himself he claimed 4000 acres (Streeter, 9 Fund Pubs. 99; Neill, Founders, 92, 183). In December, 1634, he petitioned the King of England, where he was tarrying in the settlement of his father's estate, asking that he may have a warrant of protection as a "recusant." He styles himself "alien born," and his petition is granted. His grandfather, Sir Thomas, fled to France, where he was knighted by the King during Queen Elizabeth's reign, and Copley was probably born in that kingdom. With him, in 1637, came to Maryland Father Ferdinand Pulton and lay brother Walter Morley. (18 Fund Pubs. 200 states that Copley took up 285,000 acres, 8000 of which was for the Jesuits, including the manors of St. Inigoes, 2000 acres; St. George's Island, 1000 acres; town land near St. Mary's, 400 acres; and Cedar Point Neck. Some of this land is still in possession of the Jesuit order.)

[182] 3 Md. Arch. Coun. 40.

King to restore Harvey and bring the popular Virginian leaders to Europe. In March, 1637, he petitions that he be made Governor of Virginia with a salary of £2000, and in May he requests that his interests be duly guarded, if a new Virginia Company be formed.[183] On August 8, 1636, he issued new conditions of plantation which continued until 1642. The rent was changed so that it could be paid not only in money, but also in wheat,[184] and the grant to the first adventurers was confirmed, except that the amount given to the man bringing five men in 1633 was doubled and made 2000 acres. The same amount was granted to an adventurer, who brought in 10 men in 1634 and 1635. A grant of any multiple of 1000 acres is erected into a manor, to be called by such names as the grantee desires, and its privileges are defined, as the holding a court leet and a court baron. The quit-rents required by these conditions of plantation were exacted not only from the settlers in St. Mary's, but also from those of Kent Island in 1640, after the conquest.[185] In addition to these plantation grants, Cecilius directed his brother to grant 10 acres in "the town and fields of St. Mary's," for the first adventurers for every person they brought overland,[186] and five acres to later adventurers for persons brought over before August 30, 1638.

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[183] 3 Md. Arch. Coun. 41-44.

[184] 3 Md. Arch. Coun. 47, 99. 400 pounds of wheat for the man who brought in 5 men in 1633, 600 pounds for the man who brought in 10 men in 1634, or 1635, 10 pounds per 50 acres for lesser grants. Forms are sent over to be followed in such grants.

[185] 3 Md. Arch. Coun. 95. It was graciously decreed that the past rents should only be collected there when they had not been paid to Claiborne.

[186] 3 Md. Arch. Coun. 48. Among the titles of the acts passed in 1638, is one for "baronies." This has been interpreted as a step toward introducing the feudal system, but 2 Bozman, 67, 580, points out that barony in Ireland had the same meaning as hundred in England as an area of local government, and suggested that this may have been the meaning here. Kilty, Landholders Assistant, p. 93, says no barony was erected in Maryland.

The Governor's New Commission

A little later a new commission as Governor and the first one extant, was sent Leonard, and dated April, 1637. Under this commission, the province was governed for five years. He was made "Lieutenant-General, Admiral, Chief Captain, and Commander," and given "absolute authority above and in all matters of warfare, by sea and land, to execute and administer the same to the resistance of the enemy or suppression of mutinies and insolences."[187] These provisions suggest that Baltimore issued the new commission with special intent to have it used against the Kent Islanders and this idea is further conveyed by the command that all inhabitants in the province recognize Leonard as their ruler, under pain of such punishment, "as such a high contempt shall deserve." He is also made "Chancellor, Chief Justice and Chief Magistrate" and directed to appoint lesser judicial officers and to summon an assembly of the freemen or their deputies to be held at St. Mary's on January 25 next. At this assembly, Leonard Calvert is to state that Baltimore disassents to all laws hitherto made by them and to show the draft of "laws and ordinances for the good government" of Maryland, which should be sent from England by the Proprietary, with his assent to their enactment. If approved by the assembly, the laws may at once be proclaimed. Authority was also given the Governor to dissolve the assembly and summon and dissolve other ones, "to propound and prepare other wholesome laws" to be transmitted to Baltimore for approval.[188] It may take time to call an assembly and consult the freemen, and so in emergencies Calvert may issue "ordinances, edicts, and proclamations, with reasonable pains and penalties," not extending to taking

[187] 3 Md. Arch. Coun. 49 ff and 115.

[188] This seems to imply that Baltimore was less strenuous in his insistence on his right to the initiative, than has been generally supposed.

"life, members, freeholds, goods or chattels." Such ordinances, which should be in force until the Proprietary or Governor repeal them, do not seem to have been issued. The commission also authorizes Calvert to establish ports, markets and fairs, and to pardon, in whole or in part, penalties and forfeitures for all offences but high treason, to keep the great seal and affix it to public documents, and to make grants of land. As chief judge, he may determine criminal cases, as fully as the Proprietary, except that he may not deprive any one of life or limb. He should decide civil cases according to the laws of the province or the laws of England. To act as Council with the Governor, Jerome Hawley, Thomas Cornwallis, and John Lewger were appointed, and the last named was also made "Secretary and Keeper of the Acts and Proceedings of our Lieutenant and Council," and of the land records, as well as collector of rents and customs. Three of the Council, of whom the Governor must be one, are directed to sit on all cases involving life, member, or freehold. As it may happen that the Governor may die or leave the province, he is authorized to name a successor in either event and, if in such case he fail to do so, the majority of the Council have the same power. The judicial organization of St. Mary's County was completed by the appointment, in January, 1637-8, of James Baldridge as sheriff and of John Lewger as conservator or justice of the peace. He was also made "commissioner in causes testamentary" and probate judge.[189] Lewger was an old college mate of Baltimore at Trinity College, Oxford, where he took the degree of Bachelor of Arts in 1619, at the age of 17, and that of

[189] 3 Md. Arch. Coun. 61, 73. He appointed Robert Perry, or Percy, deputy on April 17, 1638. 2 Bozman, 42, calls attention to the fact that Charles I's proclamation of April 30, 1637, against disorderly transplanting his majesty's subjects to the plantations within the parts of America would check the emigration of Roman Catholics as well as Puritans, as it insisted on conformity to the Church of England on the part of the emigrants, but adds that it seems only to have been enforced against Puritans.

Master of Arts in 1622. Studying divinity, he took the degree of Bachelor in that faculty in 1632 and received a handsome benefice in the county of Essex. He was a friend of William Chillingworth, an Anglican divine who had become a Roman Catholic, but who, after careful study, returned to the Church of England in 1634. Lewger [159a] had engaged in a like careful study "to satisfy himself or to obtain arguments with which to draw back his friend from the way of error into which he believed he had fallen," but became himself a Roman Catholic and resigned his benefice. As he was married, he could not be a priest, and his old college friend, Cecil Calvert, took him into his household and sent him to Maryland, where he arrived on November 28, 1637, with his wife Ann, son John, and several servants.[159b] To his care we owe it that more of the early records are not lost, for the books show that he preserved memoranda of the most important matters in his precise handwriting. He seems to have been a consistent friend of the Proprietary during the years he was in the province. He returned to England before the summer of 1649[159c] and then lived a retired life until his death of the plague in 1665, which he caught while comforting and sustaining those who were falling before that dread disease.

[159a] He was born in London in 1602. The name is also spelled Lewgar in Chillingworth's works. See 9 Fund Pubs. 218; Neill, Terra Mariae, 68; Founders, 72. His controversy with Chillingworth was continued for some time in letters and formal disputations.

[159b] The names of 19 servants of Lewger's in Maryland are given, but two at least were not brought over by Lewger. One was of the Kentish Islanders, taken by Evelin and transferred by him to Lewger, and the other was brought in by Evelin (9 Fund Pubs. 224). After his return to England, Lewger again became a member of Baltimore's family and is said to have written tracts supporting the royal cause and a religious work, trying to prove the invalidity of Protestant orders. His wife died just before his return to England. His son seems to have remained in Maryland (9 Fund Pubs. 274) and died 1669 (Neill, Founders, 72; I, Baldwin's Md. Wills, 49). (Baltimore had in 1667 a chaplain, an English recusant, now a Romish priest, who was a vicegerent of the province in Charles the First's time. Who was he? Neill, Founders, 72.)

[159c] 9 Fund Pubs. 275.

A month after the commission to Leonard Calvert was issued, Cecilius obtained from the King a letter to the Commissioners for foreign plantations and all other royal officers, reciting the grants of Avalon and Maryland to the Lords Baltimore and the transportation of ample colonies to each province.[160] There is now danger that some patents may pass the seals infringing these grants and Charles strictly commands that any applications for grants of land near either province be delayed, until Baltimore receive notice. The King also declares that he will not issue any *quo warranto* or other writ for the overthrowing of the charters of Avalon or Maryland.

Attempts to Subdue Kent Island

The favorable disposition of the monarch, the determination of Baltimore to press matters, the complaisance of Evelin, caused the Governor to take decisive steps. In November,[160a] Calvert wrote to the Kent Islanders, promising to grant an amnesty for past offences, if they would desist from their opposition and submit to Baltimore, and saying that he would appoint, as their commander, whomever they would choose of the inhabitants of the island. John Butler, Claiborne's brother-in-law, and Thomas Smith persuaded them to refuse, and so Evelin received the Proprietary appointment, which had not previously been given him, owing to his unpopularity with the Islanders. Calvert now took 20 musketeers from St. Mary's with Captain Cornwallis as their commander, and set sail towards Kent, intending to seize Butler and Smith, and reduce the rest into obedience. The weather was so foul on the Bay that, after remaining out a week, Calvert was forced to return unsuccessful.[160b] The commission issued

[160] 3 Md. Arch. Coun. 55.

[160a] L. Calvert to Baltimore, 28 Fund Pubs. 182, April 25, 1638.

[160b] Cornwallis (28 Fund Pubs. 169) seems not to have been in full harmony with Calvert and complains that Baltimore's service and the "pretended good" of Maryland would not permit him to go to England nor attend to his own affairs.

to Evelin [161] as commander of Kent confirmed the title he had borne by the grace of Cloberry & Co. for the previous year and a half, authorized him to hold court, determining civil cases, "not exceeding in damages or demands" £10, and criminal cases, not extending to "life or member" and cognizable by Quarter Sessions in England. He should also appoint necessary subordinate officers, especially 6 or more "able and sufficient men inhabitants of the island," with whom he should advise in all matters of importance.

About this time, Evelin came to Kent Island with his commission and summoned the freemen and inhabitants to come to the fort. There he had the Maryland charter read, to which the Islanders did not consent, but John Butler demanded, "Are you an agent for Cloberry and Co. or for the Marylanders?" "For both," answered Evelin, "for whereas I lately spoke against the patent of Maryland and said that Claiborne's commission was firm and good against it and that the Marylanders had nothing to do with the isle of Kent, now I am better informed, for I have seen the Governor of Maryland's patent. I was formerly mistaken and overseen, as I perceive now you are, but I now understand it better." [162] You should take heed what you do in opposing the Governor of Maryland, since it would be better to live under his government than that of Virginia. The Lord Baltimore has the patent and the island is his, and it would be more beneficial for you and better for the island to obey him, as you might carry your commodities and your tobacco and pipestaves into what country you would, which the Virginians can not. Claiborne's patent is of no effect, merely giving authority to trade in Nova Scotia and places near New England and not in the Bay of Virginia or Maryland. The Governor of Virginia has lately returned from England with absolute

[161] 3 Md. Arch. Coun. 59.

[162] 5 Md. Arch. Coun. 185, 196, 203, 209, 217. Zachary Mottershead read the patent. The depositions say this took place in November, but the commission was not then issued by Calvert.

authority from the King that Kent Island should be under Lord Baltimore and will assist the Governor of Maryland, if you will not yield up the island quietly, and I will not be the man that should withstand or deny it." Turning to one of his companions, he added, "Read my power of attorney from Cloberry and Murehead.[163] Butler and the majority of the freemen here burst in with: "Capt. Evelin, what needs that? Nobody doth interrupt you in the merchant's business. You may do what you please, no man doubts your authority." To this Evelin made no reply, "nor could not justly so do," as one of the Islanders later testified.

No one protested against Evelin's peaceable enjoyment of the joint stock, save the minister's brave wife, Mrs. Gertrude James, who claimed Claiborne's sixth, by virtue of a deed from him, but this claim was successfully denied by Evelin.

On December 30, 1637, the same day that Evelin's commission was dated by Calvert, a cargo of goods was shipped for the isle of Kent upon the St. Thomas,[164] by Thomas Cornwallis, for himself and Jerome Hawley, both being councillors of the province. License was given Cornwallis to trade with the Indians and he paid one-tenth of the furs to the Proprietary for the privilege. Writs were issued to Evelin on this day to seize 11 planters on Kent Island and make them give security to answer suits brought against them by Cloberry & Co., and to levy on the cattle of four others, one of whom was Mrs. James, at the suit of the same firm.[165] A warrant was also issued for the arrest of Thomas Smith, John Butler and Edward Beckler for

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[163] 5 Md. Arch. Coun. 185, 196 (Evelin also spoke to some of the people privately), 203 209, 218.

[164] 3 Md. Arch. Coun. 57. Cloth and axes. The venture seems not to have been very successful, as Cornwallis reported only 11 other skins on March 30, and returned much of the truck.

[165] 4 Md. Arch. Prov. Ct. 3, 4, 13, 29. Of course Evelin brought these suits. Wm. Cox, Robt. Philpott, Thomas Smith and Richard Thomson were among those against whom the suits were brought.

"sedition, piracy and murder." According to their statements, the islanders had little cause to love Evelin. In the preceding summer he had sent four hogsheads of meal to St. Mary's, when meal was very scarce.[166] Smith and James, friends of Claiborne, supplied the servants on the joint stock with corn, but Evelin brusquely said, "Get oysters and shift for yourselves, for I have no meat nor corn for you, nor can I tell where you can get it."[167] When they offered to take a boat and truck lying there and buy corn, he refused to permit them, but sold Calvert pieces of cloth for which corn might have been bartered. Various estimates place the value of the property lost by Cloberry & Co. through Evelin's conduct at £8000 or £10,000.[168]

The New Year and the Assembly

In January, Leonard Calvert journeyed to Jamestown and there saw Richard Kemp, Secretary of that province, who was then much worried by rumors that Virginia would be given to a new trading company.[168a] This grant he felt would give Baltimore also "all the opposition that malice can give." Calvert's visit seems to have been partly in order to confer as to measures to oppose this company and to procure cattle, hogs, hens, sheep, and negroes for the Proprietary plantation at St. Mary's, concerning which desire Baltimore had written Kemp on August 2. We have an interesting glimpse of the times in one of Kemp's excuses for not sending cattle before Christmas, that "in likelihood, before they could have been delivered, they would all have perished for want of fodder, which is very rare in Virginia & I believe not yet known in Maryland." Calvert's visit was broken off by an "Indian flam," that people had been killed by the aborigines

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[166] 5 Md. Arch. Coun. 186, 191.
[167] 5 Md. Arch. Coun. 186, 191, 210, 218.
[168] 5 Md. Arch. Coun. 189, 219, 237.
[168a] 28 Fund Pubs. 149. Kemp to Baltimore.

in Maryland, which caused him to hasten back.[168b] Kemp, it may be added, was in regular communication with Baltimore to frustrate this plan for a Virginia company, and wrote in the next month,[168c] inclosing "material writings extracted out of the records, affirming the slavery endured by the people there under the tyranny of the Company."

The time approached for the meeting of the General Assembly "of all the freemen," and, on the same day that Evelin received his commission, he was summoned to make his "personal repair to the Fort of St. Mary's on January 25, then and there to consult and advise of the affairs of this Province."[169] He should also proclaim the Assembly on Kent Island, within six days of receiving the summons, and "endeavor to persuade such and so many of the said freemen, as you shall think fit, to attend and to give free power and liberty to all the rest of the said freemen, either to be present at the said assembly, if they so please;" or otherwise to choose as many burgesses as as they wish. These should bring record of the vote with them. It is unknown what election was held on Kent Island, but, on the appointed day, Evelin came and with him Mr. Robert Philpott,[170] who exhibited his proxy for the freemen. He is already called "one of the Council of the Isle of Kent," but his commission from Calvert is dated on February 9. The others present at the opening of this second General Assembly of Maryland were all from St. Mary's. Cornwallis, Robert Wintour, and Lewger were present as Councillors and sat with the other freemen, the Governor, or Lieutenant-General, presiding

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[168b] 23 Fund Pubs. 156. [168c] 28 Fund Pubs. 155.

[169] The record says the summons was issued Jan. 30; this must mean Dec. 30. 1 Md. Arch. Ass. 1. The writ of summons for St. Mary's is not extant but it summoned freemen by name apparently. 1 Md. Arch. Ass. 4; 9 Fund Pubs.; Streeter's First Assembly.

[170] One of those whose cattle were attached, supra. Cox's cattle were also attached. 28 Fund Pubs. 193, Calvert says Philpott was one of the first that came in and deserves well.

over the whole. During the sessions of this Assembly, 64 different persons were present and 26 more freemen are mentioned, who did not appear. At some time previous to this, the country had been divided into hundreds, each with its high constable,[171] and there seem to have been three such divisions at this time, St. Mary's, Mattapanient and St. George's. Representatives of all these were present and of the 29 men who appeared at the opening of the Assembly on the first day,[172] 12 are described as gentlemen, 13 as planters, 2 as officers of the law, and 1 as a carpenter. Counting proxies, 31 freemen were present from St. Mary's, while two came later; 8 from Mattapanient, and 15 from St. George's, while one came later. A number are mentioned during the session without naming their hundreds. Proxies, however, paid no regard to hundred lines, but one man might hold proxies from all three hundreds. The daily attendance [173] fluctuated from 30 to 10. Thirty proxies were shown on the first day and seven men are recorded as absent without proxies. Calvert held 5 proxies, the largest number from the Western Shore. Men who were absent without proxies and those who were tardy were liable to "amercement," though excuses were often allowed. A curious instance of this is the case of the three Jesuits, Copley, White and Altham; on the first day they sent a proxy and pleaded sickness, and on the second day they were excused from "giving

[171] On March 31, Robert Wintour was made justice of the peace for St. George's and authorized to appoint his constable. 3 Md. Arch. Coun. 71. Robert Vaughan was made high constable of St. George's hundred when it was erected on the west side of St. George's River, on Jan. 5, 1637-8. In addition to ordinary constabulary duties he must see to it that no arms come into the Indians' hands. Mattapanient is also known as Mattapany.

[172] A 30th man, a carpenter, came later. 1 Md. Arch. Ass. 2-3. Streeter, 9 Fund Pubs. gives brief biographies of all the members of this assembly.

[173] 1 Md. Arch. Ass. 2. Of those absent all were planters save the Jesuits, a carpenter, a cooper, and a brickmaker. The latter is a proof that bricks were early made in the province. We must remember that indented servants, doubtless the majority of the inhabitants, were not summoned.

voices in this Assembly."[174] Others were excused for absence from the province or because they could not cross St. George's River. We also find men who came to the Assembly, claimed a voice as freemen and satisfied with this privilege, at once gave a proxy and left the house.[175] A proxy could be revoked at any time by the presence of the man giving it.[176] So on the second day, John Langford, of the Isle of Kent, high constable for that island, so appointed at some unknown date, "who had given a voice in the choice of Robert Philpott"[177] as Burgess came and "desired to revoke his voice and be personally present in the Assembly" and was admitted. On the next day, Edmund Parry, planter, of Kent Island, did the same, but no other Eastern Shore representative appeared until after the reduction of the island.

On the first day, rules of procedure were adopted that the Governor should preserve order under pain of fine or imprisonment[178] as the house shall judge, that 10 should be a quorum, and that sessions should begin at 8 a. m. and 2 p. m. Motions must be reduced to writing and read by the Secretary. No one should rise to speak till the last speaker has sat down, nor should a man speak more than once at one reading of a bill, nor "refute the speech of any other with any uncivil or contentious terms, nor shall name him but by some circumlocution." The speaker must stand uncovered, and address the Governor, who shall determine who has the floor, if two rise at once.[179] On Friday, the second day of the session, the draft of laws transmitted by the Lord Proprietor was read through and

[174] 1 Md. Arch. Ass. 5, 7.

[175] 1 Md. Arch. Ass. 6.

[176] So might a proxy be transferred from one who formerly held it, but was now absent, to another. 1 Md. Arch. Ass. 4-11.

[177] 1 Md. Arch. Ass. 6-8. The confusion of dates is inextricable here, the election for burgesses in Kent was not held until February according to L. Calvert. 28 Fund Pubs. 185. Three burgesses, at least were elected from Kent Island.

[178] There was no prison. 1 Md. Arch. Ass. 4.

[179] Amercements were made in tobacco, already the colonial currency. 1 Md. Arch. Ass. 6-7.

the laws were severally debated. On the following Monday morning, it was proposed whether the laws formerly read should be read again or put to the vote at once. Cornwallis, who was not in full harmony with the Governor, with five others, casting in all 18 votes,[180] favored delay to a "more frequent house," while Calvert and six others, casting 33 votes, decided for an immediate vote.[181] When however, the question of the adoption of the laws was put, only Calvert and Lewger, casting 14 votes, were in the affirmative, and the other nine men cast their 37 votes in the negative. It was then asked, "By what laws shall the Province be governed," and some said, "We might do well to agree upon some laws till we can hear from England again." "We have no such power," Calvert maintained. "Then we must use the laws of England," asserted Cornwallis. "I acknowledge," Calvert returned "that my commission gives me power in civil cases to proceed by their laws and so in criminal cases likewise not extending to life or member, but in those latter I am limited to the laws of the Province. By the refusal to pass these laws, therefore, there can be no punishment inflicted on any enormous offenders." The Governor's commission was then produced and read and found to sustain Calvert's position. Cornwallis and his followers answered, nevertheless, "Such enormous offences could hardly be committed without mutiny and then could be punished by martial law." An adjournment for the midday meal put an end to the discussion, and when the Assembly came together in the afternoon, Calvert seems to have yielded, so that when some one proposed that they "consider of

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[180] 1 Md. Arch. Ass. 8. Cornwallis 4 votes, H. Fleet 5 votes, R. Vaughan 4 votes, E. Fleet 2 votes, E. Parrie 1 vote (16 votes, yet the Proceedings give the total as 18).

[181] The records call Calvert the president. Wintour, the third member of the Council, was ill. 1 Md. Arch. Ass. 9. L. Calvert 8 votes, Evelin 6 votes, Lewger 6 votes, Greene 1 vote, Snow 4 votes, Rabnett 8 votes, Baldridge 2 votes (35 votes, yet the Proceedings make the total 33).

some laws to be sent to the Lord Proprietor," the Governor advised that a committee be chosen "to prepare the draft of them and then the house might meet for confirming of them and in the meantime every one might follow their other occasions."[183] This suggestion was approved, and it was determined to choose a committee of five. Of the 16 present, nine were nominated as well as Captain Wintour who was absent, and those elected were Calvert, Cornwallis, Wintour, Evelin and Justinian Snow.[184]

The Assembly had decided on that morning that, after the writs were issued for summoning the Assembly, no man having a right to repair to the Assembly, whether present at its deliberation or represented by a proxy, might be arrested until a convenient time for his return home had passed after the dissolution of the Assembly. This privilege of Parliament would be awkward during the recess, especially as a court was to be held on February 3, and so was suspended until after that date.[184]

While the committee is deliberating, the first recorded inquest in the province takes place on January 31, on the body of John Bryant, of Mattapanient, planter, on whom a tree fell, crushing him beneath it. The coroner's jury declared the tree forfeited to the Proprietary as a deodand.[185]

On the appointed day the Assembly again met [186] and the committee reported that they recommended that the Pro-

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[183] 1 Md. Arch. Ass. 10. The matter of proxies is perplexing, especially as to the Kent Islanders. Evidently these were not voted by any of the representatives on this day. Copley maintained that his overseer, Lewis, had more proxies than any one else. This is incorrect. 28 Fund Pubs. 158.

[184] Apparently Cornwallis has the unanimous vote 54, Evelin 48, Wintour 45, Calvert only 38, and Snow 31. Lewger with 22 was defeated, as were Greene 17, Jas. Baldridge 8, Henry Fleet 8, and Clerke 7. Wintour was authorized to name another in his stead, if his sickness prevented his serving.

[184] 1 Md. Arch. Ass. 8-10. No record of this court is found.

[185] 4 Md. Arch. Prov. Ct. 9.

[186] 1 Md. Arch. Ass. 11. Quite a good number attended, 30 in all. They voted to have three readings of bills on three successive days.

prietary's draft of laws be read and voted on again, as there had been much misunderstanding about them among the freemen. This recommendation was adopted by a vote of 48 to 21. Then the Proprietary's draft and 20 bills prepared by the committee were read and the house determined by a vote of 37 to 31 to have these laws voted on separately. Shortly after the afternoon session began, the Governor declared, "I thought it fitting to adjourn the house for a longer time, till the laws which they would propound to the Lord Proprietor were made ready, which some would take a care of and in the meantime the company might attend to their other businesses."[187] Probably a disinclination to the rejection of his brother's laws and a desire to push on the expedition for the reduction of Kent Island impelled him to this. Cornwallis, who seems to have been rather indisposed to attack the islanders, answered, "We could not spend our time in any business better than this for the country's good," and another planter added, "Why should the assembly be adjourned. We are willing to leave our other business to attend to it." Calvert, however, resolutely replied, "I will be accountable to no man for my adjourning of the Assembly."[188]

Before the adjournment, however, Cornwallis secured the election of himself, Evelin and Calvert as a committee of three to go on with the laws.[189]

Calvert prorogued the Assembly[190] until the 26th of February, that he might have time for his expedition to Kent

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[187] 1 Md. Arch. Ass. 12.

[188] Privilege of parliament was again suspended (1 Md. Arch. Ass. 12, 13, 14) at each prorogation. 2 Bozman, 52, has a long discussion as to the "warrants" from which this privilege exempted the freemen and concludes that the word was confined to civil process, and points out that a similar exemption from arrest for debt was allowed in Virginia and that in England no privilege availed against arrest for treason, felony or breach of the peace, though he admits that warrants usually refer to criminal process.

[189] Of the 62 votes cast, Cornwallis had 56, Calvert 46, Evelin 44, Lewger polled 31, Snow 5, Fleet 4.

[190] 1 Md. Arch. Ass. 13; 3 Arch. Coun. 64.

Island and appointed Lewger as a temporary president, in case he had not returned by that time. On the 26th, Lewger called the Assembly[191] together and prorogued it until March 5,[192] when it was again prorogued by him until March 13. On February 17, Calvert granted Thomas Games a license to trade with Dutch or Indians, while another man, Robert Clerke, who was employed by Copley, one of the Jesuits, received a license[193] to trade with the Indians of the province for the benefit of his master, paying the usual tenth to the Proprietary.

The Conquest of Kent Island

On February 17,[194] the names of Calvert, Hawley and Lewger[195] are signed to a proclamation, stating that the inhabitants of the Isle of Kent have committed "many piracies, mutinies, and contempts," and especially disobeyed warrants sent for arrest of alleged malefactors and debtors[196] and even rescued by open force some who had been taken prisoners. Worst of all they are conspiring with the Susquehannocks and other Indians against the province. The Governor now intends to sail with Cornwallis and a number of well armed freemen to reduce the inhabitants by martial law, and put to death any who obstinately refuse to submit. A court was also held

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[191] Wintour was present and ten very undistinguished men. 1 Md. Arch. Ass. 13.

[192] On March 5, Lewger, Greene, Jas. Baldridge and eight others. were present.

[193] This man, Robert Clerke, was not an indentured servant, for he sat in the assembly. 3 Md. Arch. Coun. 63; 4 Md. Arch. Prov. Ct. 34. A similar grant was made to Capt. Fleet on Feb. 28, and to Hawley on July 9. 3 Md. Arch. Coun. 67, 73 to 78. Games received a similar license in 1640.

[194] 3 Md. Arch. Coun. 63, 91.

[195] Query. Was Hawley really present to sign it? He never appears in the legislature and may have been in Virginia. 28 Fund Pubs. 183.

[196] On Feb. 9, a writ against 3 Kentishmen for debt was issued to the sheriff at the suit of Cloberry & Co., i. e. through Evelin. 4 Md. Arch. Prov. Ct. 13.

on that day[197] before Calvert, Wintour, and Lewger, at which the sheriff returned 24 freemen as the grand inquest, and six witnesses testified.[198] As the result the grand jury returned true bills against Claiborne for instigating Lt. Warren to make the attack on Cornwallis's vessel in which attack Ashmore was killed. Shortly after this, Calvert started for the Eastern Shore.[199] Evelin seems to have been heartily with Calvert and went on this expedition, in which 30 choice musketeers were engaged, and is said to have encouraged men to go to Kent, by saying that the pillage would be worth more than the loss of their time and even to have paid one for his share of the plunder.[200]

The sheriff of Kent was directed by several writs to seize the pipestaves and other goods and chattels belonging to Claiborne or to Cloberry and Murehead on Kent Island, inasmuch as "they[201] have jointly usurped our said Isle" and defended it against our just title and trade with the Indians contrary to our "royal right," and committed waste upon our land felling "divers of our best timber for making pipe staves."[202]

The expedition arrived at Kent Island[203] a little before sunrise. Going to "Claiborne's house, seated within a small fort of palisadoes, one of the party, who knew the place, found entrance & unbarred the gate towards the

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[197] 3 Md. Arch. Coun. 64; 4 Md. Arch. Prov. Ct. 14, 21; 5 Md. Arch. Coun. 169.

[198] Cornwallis, Fenwick, Cotton, E: Fleete, Newill, and Lewis.

[199] The records show that Cornwallis and Calvert were at St. Mary's on Feb. 25 and 26. Could they have waited until then? Yet neither were in the assembly on the latter day. 4 Md. Arch. Prov. Ct. 15.

[200] 5 Md. Arch. Coun. 238.

[201] 5 Md. Arch. Coun. 170 to 173; 3 Md. Arch. Coun. 70. They were summoned to appear at St. Mary's County Court before Feb. 1, 1639.

[202] The illicit Indian trade was one of Calvert's chief troubles. Virginians who had carried on this trade freely for over 20 years were not willing to give it up and William Brainthwait was commissioned to seize any vessels trading with the Indians without license and any furs, etc., so traded. 3 Md. Arch. Coun. 62.

[203] 5 Md. Arch. Coun. 186, 191, 209, 218.

sea, by which the St. Mary's men arrived within the fort, without being noticed." Butler and Smith were not there, but at their plantations, and all persons in the fort were brought to Calvert, to prevent them giving untimely notice of the arrival of the expedition. Taking their prisoners with him, Calvert marched some five miles to Butler's dwelling, called the "Great Thicket," and sent his pinnace to Craford. About half a mile from the dwelling, he halted and sent the ensign, Robert Clerke, with ten musketeers, to tell Butler of his arrival and command him to come at once to Craford, two miles away. Clerke returned with Butler, before Calvert moved, and then Sergeant Robert Vaughan, with six musketeers, was sent to Thomas Smith's house, called Beaver Neck, on the opposite side of the creek from Butler's. Calvert then marched forward with Baltimore's "ensign displayed,"[204] to Craford, whither Vaughan brought Smith. Placing these two prisoners on the pinnace, Calvert proclaimed a general pardon for all other inhabitants on the island, if they should submit within four and twenty hours. "The whole Island came in," and Calvert received their submission, assuring them that Baltimore would always be ready "upon their deserts to condescend to any thing for their goods."

Butler, Smith and most of the soldiers were sent away to St. Mary's, that the sheriff might keep the prisoners in custody there. While awaiting the pinnace's return, Calvert held court and heard "diverse causes between the inhabitants." After this, he assembled them to choose their burgesses for the General Assembly, told the islanders that they must receive patents from the Proprietary for their lands and promised to come over again in the summer with Lewger to survey and lay out the lands.

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[204] This account is taken from L. Calvert's letter to Baltimore, dated April 25, 1638, and here is the first mention of Maryland's flag. 28 Fund Pubs. 183 ff.

Calvert estimated that there were 120 men able to bear arms, besides women and children on the island.[205]

He commissioned[205a] Philpott, William Coxe and Thomas Allen, conservators of the peace on the island, authorizing them to hold courts leet, Philpott and at least one other being present, and to determine civil causes not exceeding in damages or demands 12 hundredweight of tobacco, and criminal cases not extending to the loss of life or member. In greater cases Philpott was authorized to issue warrants of arrest of person or attachment of goods to John Langford,[205b] who was appointed sheriff at the same time, and the case was then to be brought before the court at St. Mary's.

It seems that a second expedition with some 50 men was made some time later, as a result of which two voyages all the estate of Cloberry & Co. was confiscated and the indentured servants carried away. Claiborne's own property was also confiscated, consisting of tobacco,[206] nearly 200 cattle, 16 indentured servants, tools and other goods, whose value was estimated by one observer as £7000 at least. Richard Ingle, of whom we shall hear more, now appeared on the scene, contracted with Leonard Calvert to transport the confiscated pipestaves to England, and took from the island 40,000 staves in the Richard and Anne, for which suit was afterwards brought by Cloberry and his associates.[207]

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[205] Cornwallis said the expedition was much easier than had been anticipated. 28 Fund Pubs. 170.

[205a] 3 Md. Arch. Coun. 62. The commissions were dated Feb. 9.

[205b] On the 8th, Langford was appointed administrator of a Kentish intestate. 4 Md. Arch. Prov. Ct. 12.

John Langford was Lord Baltimore's agent, who took to Windsor, on April 23, 1633, the first annual payment of two Indian arrows, on which tenure the Province of Maryland was held. He published a "Just and clear Refutation of Babylon's Fall" in 1655. 28 Fund Pubs. 54.

[206] They alleged there were 70,000 lbs. tobacco.

[207] See records of Admiralty Court Misc. Books, 281-21. Ingle was 36 years old in 1645. By agreement, before going to Kent, with Lewger, who apparently acted as Baltimore's agent, Calvert had the

Early in March, Calvert sent Robert Vaughan, William Brainthwait and several others, taking[208] with them two small pieces of ordnance out of the Kent Island fort, to reduce still another trading post of Claiborne's, situated on Palmer's Island. This island lies at the mouth of the Susquehanna, was later known as Watson's Island and is now crossed by the Baltimore and Ohio Railroad. It first belonged to Edward Palmer, of Leamington, Gloucestershire, England, who died about 1625, and at his death he left the land to his descendants, and in the event of their extinction, to found a university called Academia Virginiensis et Oxoniensis. The contingent bequest was never made effective.

By grant from the King of the Susquehannoughs, Claiborne claimed title to Palmer's Island,[209] and in the spring of 1637 sent William Jeanes, one of his servants, to establish a settlement there, believing it above the 40 degrees parallel. Thither came Calvert in June, "displanted" the fort and houses and carried away the men, cattle and hogs[210] to St. Mary's, thus damaging Claiborne to the amount of £1000, as it was claimed. The inventory of articles seized shows a trading house well supplied for Indian wants and four indentured servants. Five or six little books and a "great book of Mr. Perkins" were also seized.

Proceedings Against Smith and Claiborne

Before this last confiscation, however, the Assembly was reconvened[211] on March 12 and read the 20 bills for the

confiscated windmill, housing, garden and goods, and the pipestaves at 40s. a thousand, and should defray all the charges of the expedition, and Baltimore should have the cattle. 28 Fund Pubs. 198.

[208] Robert Vaughan, Renauld and Edward Fleet were of the party. They returned before March 12.

[209] 5 Md. Arch. Coun. 188, 219, 231, 234. 28 Fund Pubs. 183. L. Calvert thinks Smith was prime mover in settling Palmer's Island.

[210] 8 cows, 60 hogs. 5 Md. Arch. Coun. 172; 3 Arch. Coun. 76; 28 Fund Pubs. 187.

[211] 1 Md. Arch. Ass. 14.

second time. The next day, 14 bills, whose titles are given in the records, were read for the first time.[213] They had a second reading on the 14th and three others were read for the first time. We discover that the freemen were firm that no custom of permitting "the resting of servants on Saturdays in the afternoon" was to be allowed.[213a] Four more bills were later introduced by title and Bacon's Laws note the titles of 42, which were passed on their third reading and signed by the Governor and members before the session was dissolved.[213] Only one of these is extant,[213a] the act for the attainder of Claiborne, which recites that he has been indicted by the grand jury for instigating Warren's acts, but being out of the province, he cannot be tried "by any ordinary course of justice," consequently the freemen attaint him of piracy and murder and decree that he forfeit all his property to the Lord Proprietary.

We see proof that the Assembly claimed powers of a court of law by fining one man for striking another.[214] The proof of this, however, is the action of the Assembly on March 14, when 22 freemen sat.[215] We may imagine a clustering crowd of servants about the door when Thomas Smith was called to the bar to answer to an indictment for piracy.[215a] The charge was based on his seizing, near Palm-

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[213] 1 Md. Arch. Ass. 23.

[213a] 2 Bozman, 66, says "that notwithstanding this declaration of the legislature the custom has to some measure, even with slaves, prevailed throughout the Province."

[213] Two more Kent Islanders, one of whom was Edward Beckler, afterwards executed for sedition on account of the Kent Island troubles, and both of whom are called "burgesses," came in before the session closed on March 24. On 19th, 2 men made Cornwallis their proxy and were denied. 1 Md. Arch. Ass. 22.

[213a] 1 Md. Arch. Ass. 23.

[214] 1 Md. Arch. Ass. 19, 21.

[215] 3 coming in after the trial begun did not vote. 1 Md. Arch. Ass. 16. Of the 18, 6 had been the witnesses (all there were) before the grand jury, and 7 were members of that body. The one negative vote came from a member of the grand jury. Of the three late ones, one had been on the jury.

[215a] We do not know under what law he was convicted but the Assembly passed a bill confirming the sentence.

er's Island, in 1635, a pinnace from St. Mary's and taking it and its cargo of truck to Kent Island, whither he also carried as prisoners the men on board, John Tompkins and Robert Vaughan.[215b] Lewger acted as attorney for the province and produced two depositions. Smith pleaded not guilty, and said he could challenge none in the house that were to pass upon him. Vote was then taken and but one voice was for acquittal, while 18 answered guilty; Calvert then pronounced sentence of death by hanging and decreed that Smith's goods should be forfeited, save that his wife should have her dower. Smith now demanded benefit of clergy, but Calvert sternly answered there is no such privilege to one accused of piracy and benefit of clergy may not be demanded after judgment. Smith petitioned Baltimore for pardon, but doubtless the Proprietor left him to Leonard Calvert, as the latter wished, to do as he found Smith to deserve.[215c] We do not know when this sentence was carried into execution, but there seems to be no doubt that Smith and another Kent Islander, Edward Beckler, were put to death as "rebels." Cornwallis and six others now left the room and Lewger asks the other 16 to inquire into the deaths which occurred in the struggle on the Pocomoke. After hearing four witnesses the Assembly exonerated Cornwallis and his party as firing in self-defence and decided that Ratcliffe Warren and his party were "felons, pirates & murderers."[216]

Butler, rather strangely, was not tried.[216a] Calvert hoped, by "showing favour unto him, to make him a good member," and took him from the sheriff's custody into his own house. If he should show "a good inclination" to Baltimore's service, Calvert hoped to make him commander of Kent, for Philpott, Allen and Coxe were "very unable" for

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[215b] 28 Funds Pubs. 187.
[215c] 28 Fund Pubs. 187. Op. cit. 171. Cornwallis asked for his pardon, out of mere charity towards his poor wife and children.
[216] 1 Md. Arch. Ass. 17.
[216a] 28 Fund Pubs. 186.

the charge, nor were better to be found on the island. If Butler continued stubborn in opposition, he should yet be punished. He seems to have become somewhat reconciled to the Proprietary Government, for, on May 27, Calvert commissions him Captain of the Kent Island militia and second only to the commander of the island.[216b]

So ended the session of the Assembly and so was Kent Island reduced to Calvert's control. Evelin[216c] remained in the province only a few weeks, during which time his name frequently appears on the records. On May 30, he conveyed to his brother Robert three servants in satisfaction of a debt owed the latter by Cloberry & Co. He also conveyed to Robert Evelin his plantation of Piney Point, containing 300 acres, and 50 acres more he lately bought from John Richardson. He returned in the next year for a short space and then vanished from the history of the province, having resided there only about one and one-half years, but having played a most important part in the extension of the Proprietary's authority over the Eastern Shore.

Claiborne's Petition in England

In the early part of 1638, Claiborne suffered an even greater loss in England. On February 26,[217] he filed a petition, for himself and partners, asking the King for a speedy examination of his wrongs, and for a confirmation, under the great seal, of the grant of Kent Island, to send with a ship, which was now ready to depart. He recited his misfortunes at Baltimore's hands down to the expedition in November and offered to pay £50 per annum for Kent Island and the same sum "for the plantation in

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[216b] 3 Md. Arch. Coun. 75.

[216c] 4 Md. Arch. Prov. Ct. 34. He calls himself of Evelinton in St. Mary's Co. The debt was for 1400 lbs. of tobacco and 52 lbs. beaver. His son had remained in the province for some years, and married Obedience Robins. His daughter, Rebecca, married Hon. Daniel Parke. Brown Genesis 888. 28 Fund Pubs. 204.

[217] 3 Md. Arch. Coun. 67.

the Susquehannoughs country," to have 12 leagues of land on each side from the mouth of the Susquehanna River, southward down the Chesapeake to the sea and northward to the head of the river and the Grand Lake of Canada. We can well see that this patent would have ruined Baltimore's patent, but the vague phrasing of the request was, doubtless, meant to confuse the royal authorities, with their meagre geographical knowledge. The application seems to have met with favorable consideration and is referred to the first council day after Easter. Baltimore at once answered Claiborne's petition and asked that the order of July 3, 1633, be confirmed, leaving Baltimore "to the right of his patent and the other party to the course of law."[218] As to the injuries alleged by Claiborne to have been done him in Maryland, let these be examined into in America by the Governor and Council of Virginia. On April 4, the Lords Commissioners for Plantations met,[219] a distinguished body of 11 men, presided over by the Archbishop of Canterbury. Claiborne and Baltimore with their counsel were also present, and the commissioners decided that Claiborne's license, under the Scotch signet only, was a license to trade with the Indians, where "the sole trade had not been formerly granted by his majesty to any other" and gave no title to plant or trade with Indians in Kent Island, or any other place within Baltimore's patent. No plantation or trade with Indians ought to be within those limits without Baltimore's license and no grant of any place within those limits should be made by the King to any one. As to the violences and wrongs of which Claiborne complains, the commissioners found no cause at all to relieve them, but left "both to the ordinary course of justice." So thorough a defeat, followed by news of the final reduction of Kent and Palmer's

[218] 3 Md. Arch. Coun. 68.
[219] 3 Md. Arch. Coun. 71. An interesting draft of a petition by Baltimore to the Lords, published 28 Fund Pubs. 221, may well date from this time.

Islands did not discourage Claiborne; but, on June 28, he wrote to Sir Edward Coke,[220] imploring his assistance and stating that the Earl of Stirling would join in any petition to the King. This petition resulted in a letter, under the royal signet, on July 14, from the King to Baltimore, stating that complaints from Cloberry and Murehead have come to him of the violation by Baltimore's agents of the royal orders concerning "Kentish Island" and the trade and plantation there. The King now refers the matter to the Commissioners for Plantations and enjoins Baltimore to permit the Kentishmen to be safe in their persons and goods, till the matter be decided. The island had been reduced nearly six months before this date, and no attention seems to have been paid in Maryland to the letter, but its issue showed clearly Claiborne's indomitable spirit.

The Claims of Cornwallis and the Jesuits.

In May or June, Lord Baltimore received three important letters from his province. One from the Governor,[221] told of the reduction of Kent Island, complained that Hawley did not seem sufficiently loyal, and spoke of procuring for the Proprietary various products of the country, which the latter desired.[222] He tells his brother that Mr. Lewger is a "very serviceable & diligent man in his secretary's place in Maryland and a very faithful and able assistant to me," [223] and that he will shortly adjust all accounts with Lewger as Baltimore's agent. The Assembly refused to pass the body of laws sent over by Lewger, in spite of Calvert's efforts, but he thinks that the laws passed "will appear to you to provide for your honor & profit, as much as those you sent us did." Calvert has had no

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[220] 3 Md. Arch. Coun. 77. Coke had been present on April 4.
[221] 28 Fund Pubs. 183.
[222] He speaks of relations with the Indians as being most friendly. 28 Fund Pubs. 192.
[223] 28 Fund Pubs. 179. Cornwallis speaks not quite so favorably of him.

time and little trust in Hawley's ability to induce the Virginia Legislature to pass a bill for the "securing of your right in the trade within your precincts." The letter was written from Virginia, where Calvert was for a short time, having left Lewger as Governor at St. Mary's.[224] A second visit to Virginia in June, when Cornwallis was left as Governor,[225] seems to have produced no greater result, but after word came of the decree of the Commissioners of Plantations, the Governor and Council of Virginia issued a proclamation, dated October 4, forbidding any inhabitant of Virginia to "use, exercise or entertain any trade or commerce for any kind of commodity whatsoever with any of the Indians or salvages" in Maryland, or, indeed, to "resort" unto their "habitations, without license" from Lord Baltimore.[226]

This matter of Indian trade was most important. The Assembly left it entirely to the Proprietary,[227] and Calvert exhorts his brother to let Cornwallis have "3 twenty pound shares in it yearly, so long as he is a member of your Colony," to give "him encouragement for the many services he has done you."[228] There is danger of spoiling the trade by letting too many be sharers in it and Calvert entreats his brother to let no one but himself and Cornwallis join with the Proprietary therein. Baltimore granted this petition.[229] Cornwallis writes, asking the same favor,[230] which Calvert recommended for him. Baltimore knew he "came not hither to plant tobacco," and, if he can obtain only

[224] Lewger's commission is dated April 1 (3 Md. Arch. Coun. 71). The letter is dated from Virginia, April 25.

[225] Commission dated May 27 (3 Md. Arch. Coun. 74).

[226] 3 Md. Arch. Coun. 80.

[227] Cornwallis says the law as to trade will give him power to ratify conditions with the first adventurers (28 Fund Pubs. 173).

[228] Calvert (28 Fund Pubs. 190) writes with magnaminity, "though it hath been his fortune and mine to have some differences formerly, yet, in many things I have had his faithful assistance for your service &, in nothing more, than in the expedition to Kent this last winter." Cornwallis commanded the soldiers in that expedition.

[229] 28 Fund Pubs. 197.

[230] 28 Fund Pubs. 170.

"what I must fetch out of the ground by planting this stinking weed of America, I must desert the place and business, which I confess I shall be loath to do, so cordial a lover am I of them both." He has rather exhausted his patrimony than made money hitherto[231] and has expended a "vast charge" for two years, in building a grist mill for the province. Furthermore, while "hitherto we live in cottages," Cornwallis is now "building a house, to put my head in, of sawn timber, framed, a story and half high, with a cellar, & chimnies of brick, to encourage others to follow my example." Of "common stocks" he will have no more and his refusal to join with others of the "first adventurers, in accepting the last conditions for the trade," has made him seem, but not truly, to be the "only supposed enemy" to Baltimore's profit. He assures Baltimore of Hawley's loyalty to him and shows by his words that he is aware there are rumors to the contrary. There is great bitterness in his remarks with reference to Claiborne. Cornwallis wrote of the act of attainder, "which comes for your Lordship's confirmation with many others among which, if there were none more unjust I should be as confident to see this same a happy commonwealth, as I am now of the contrary, if your Lordship be not more wary in confirming, than we have been wise in proposing." This shows that Cornwallis's opposition to Calvert and Lewger in the Assembly had been far from successful. Apparently, the religious laws are most distasteful to him and he hopes that no clause may be approved "that shall not first be thoroughly scanned and resolved by wise, learned, & religious divines to be no ways prejudicial to the immunities & privileges of that Church, which is the only true guide to eternal happiness."

The third letter, from Thomas Copley,[232] dealt chiefly with this same matter, viz., the position of the Roman

[231] He speaks as though he had once possessed the monopoly of supplying the colonists with goods. [232] 28 Fund Pubs. 157.

Catholic Church in the province, and particularly of its ecclesiastics. Baltimore endorsed on it, "Herein are demands of very extravagant privileges." Copley begins by assuring the Proprietary that the Jesuits had not opposed the passage of the laws, nor intermeddled in any way with the Assembly, since it was not fit that they should be there and their "proxies would not be admitted, in that manner as we could send them." Even Calvert and Lewger said that the laws sent over were "not fit for this colony," and a recent hasty glance over those that were passed, causes Copley to pen an indignant protest against them. Here began a struggle between the Proprietor and Jesuits which had important results in the province.[233] Copley first objects to the provision that "20 men be registered here, before any one can pretend to a manor," and says Greene told him that, if this became a law, he must desert the colony, as he could not present that number of men, and his lands were unsalable.[234] In a very tactless way, Copley insinuates that all Baltimore wishes from the province is the Indian trade, and proceeds to lecture him for hoping to draw a return from the province at an early date.

The great cause of complaint, however, is the treatment of the ecclesiastics of the church. There is no care "to promote the conversion of the Indians," to provide or show any favor to ecclesiastical persons, or "to preserve for the church the immunity & privileges which she enjoys everywhere else." Lewger seems to say that "she has no privileges *jure divino*," but they are due, only when "the commonwealths, in which the church is, grant them." He holds that they may proceed with ecclesiastical persons as with others, and has even granted warrants against

[233] There is an excellent paper on this subject by Prof. Alfred Pearce Dennis in Proc. Am. Hist. Ass. 1900, vol. 1, p. 107.

[234] He says that many question the legality of the passage of the acts and complain that Calvert, Lewger and "their instruments" did what they would through their proxies.

one of the Jesuits' servants. It is true the sheriff, Baldridge, a Protestant, desired Copley to send the man down, but added, in Calvert's presence, that he "must otherwise fetch him down." Worst of all, Lewger already demands 1500 pounds of tobacco of the Jesuits for building a fort, though they should be freed from taxation, as they render their religious services gratis.

The Legislature has apparently passed a law[225] that men must relinquish their manor lands and cast lots for a choice. This may make the Jesuits lose their lands or pay quit-rent as freeholders, which they cannot do, having no corn. Even if they have the best lot and choose Mattapany, they must lose Gerard's Manor, bought at a "dear rate," and there will be no knowing when Assemblies shall again alter private rights.

Other laws provide that they must have 15 freemen trained as soldiers on their manor, must plant two acres of corn for every head, and must lose the trade in beaver and corn, as well as lay out glebe lands in their manor, where they must be pastors (which is not their work) or employ others for this purpose. Forfeiture of land of nuns to the next of kin, an order for the payment of debts, and prohibition to take land from Indian kings, also are objected to, as is the act for enormous crimes, punishing the exercise of "jurisdiction & authority without lawful power and commission derived from the Lord Proprietary." This law would "hang any Catholic bishop that should come hither and also any priest, if the exercise of his functions be interpreted jurisdiction or authority." Having stated his objections to the laws, Copley warns Baltimore from assenting to them, in rather superior tones, and then asks for a "private order that we may, while the Government is Catholic, enjoy these privileges:" 1. "That the church and our houses may be sanctuary;" 2. That the

[225] We really get our chief knowledge of the content of these laws from this letter.

Jesuits and their "domestic servants & half at least" of the "planting servants may be free from the public taxes and services and that the rest of our servants and our tenants, though exteriorly they do as others in the colony, yet that in the manner of exacting or doing it, privately, the custom of other Catholic countries may be observed, as much as may be;" 3. That, "though in public we suffer our cause to be heard & tried by the public magistrate, yet that, in private, they know that they do it, but as arbitrators & defenders of the church, because ecclesiastical jurisdiction is not yet here settled;" 4. "That, in our persons and with such as are needful to assist us, we may freely go, abide & live among the Savages, without any license to be had here from the Governor or any other;" and, lastly, that it be left to the discretion of the ecclesiastics, to determine what ecclesiastical privileges they must relinquish, to satisfy the English government, and that they may "enjoy any such privileges" as will not be noted by that government.

As to temporal affairs,[286] Copley repeats their request for land and asks that they may be allowed to employ one boat in trade "whensoever we shall not otherwise use it," and to buy corn from the Indians without asking permission of the provincial authorities.[287] Copley does not wish to eat "bread at their courtesy, whom as yet I have found very little courteous."

Baltimore evidently called this letter to Lewger's attention, for the latter refers to the Jesuits' complaints,[288] in a letter to the Proprietary dated January 5, 1638-9. Lewger says that when he told Poulton, a Jesuit priest who had just arrived, what were Baltimore's instructions of last summer, Poulton seemed surprised and would not believe

[286] Baltimore answered that they of the hill, "i. e. the Jesuits," "should have some temporal person to manage their affairs."

[287] He accuses the chief men of the colony of "neglecting planting for a peddling trade," and says it will be many years ere enough grain is raised for sustenance.

[288] 28 Fund Pubs. 194.

that More, the English Provincial of his Order, had said that "a Catholic magistrate may in discretion proceed here, as well affected magistrates in the like cases do in England." Lewger protests that he is not "conscious of anything yet done out of disrespect to their persons, functions, or rightful liberties." He writes of trade, of sending Baltimore deer and birds and arrowheads,[239] of the Proprietary's cattle in St. Mary's and of those he confiscated in Kent,[240] of providing swine, hens,[241] sheep,[242] goats and negroes[243] for the Proprietary and his sister, Mrs. Eure.[244]

Father White's Report

A month later than Lewger, Father White wrote an important letter[245] to Baltimore. He said that the estate of the province was "every day bettering itself, by increase of planters & plantations & large crops this year of corn & tobacco, the servants time now expiring."[246] He thought Baltimore was "much beloved & honored of all" and insisted that "we must use all means to full people the country." Men, who have been in the province, must be employed "as faithful servants, to your Lordship & this Colony for God's glory," to visit "all the shires of the land and work sollicitously with such a spirit of fervor & paines as if God required no other thing in this world in their hands but this." Every planter must bring over a man for every 2000 pounds of tobacco he raises. Baltimore himself may

[239] Apparently Leonard Calvert had explored beyond the falls of the Potomac (28 Fund Pubs. 201). Calvert must attend to providing arrow-heads. Lewger wrote that he scarce sees an Indian or an arrow in half a year (op. cit. 198).

[240] "Kine is a slow profit," and there is danger of overstocking the province.

[241] Lewger can spare 50 or 60 breeding hens at any time.

[242] He hopes to get these from Kemp in Virginia.

[243] "I hear of none come in this year."

[244] He discusses the adjustment of accounts between Leonard Calvert and his brother, the Proprietary, and plans to obtain a house for the latter.

[245] 28 Fund Pubs. 201, dated Feb. 20.

[246] I. e. those brought over in 1634, bound for 5 years.

reap the return, which the Jesuits have just had from their overseer, if the Proprietary will send over 45 men, under a careful overseer, and may receive 1000 pounds of tobacco per man and seven barrels of corn,[347] with peas, beans, and "mazump," with 200 head of poultry and turkeys. After the men are freed they "may, forever, by their chief rent maintain your Lordship's house." White also suggests that the Proprietary monopolize certain trades, especially that of brickmaking, and buy ships to be used for trade in Maryland tobacco, in exchange for all manner of commodities, sold from the Proprietary's "magazines in this Colony at reasonable prices." Other suggestions for gain are through the raising of swine on some large island and of goats and milch cattle, and through the planting of vineyards, the wild grapes of the province yielding a wine "not inferior in its age to any wine of Spain." As to the trade in beaver, White suggests that the "last concordat" between the "first adventurers" and the Proprietary is not satisfactory. By this concordat they paid the tenth of their cloth and beavers for five years and then "have no more right in trade," whereat they murmur that, in the "declaration and conditions of plantation, both share in trade and the land runs in one and the self same tenor," and, if the conditions as to trade are altered, "they can have no assurance for the lands you give them." A "common stock" has twice been tried and in it "every body was losers, which makes every body protest against it, as an engine and mystery to undo your Lordship & them." White urges Baltimore to yield greater privileges to the first adventurers and not make it easy for them to absent themselves from home[348] and trade in New Albion, diverting the trade of the province and setting up a market elsewhere, as Fleet has already planned. Better would it be for Baltimore to establish 3 factories: one at Palmer's

[347] Corn probably means grain here. Mazump is maize or Indian corn.

[348] Is not this the first time the word was applied to Maryland?

Island, for the trade of the Susquehannoughs; one at Nanticoke, "for all the Eastern foreland"; and the third at Anacostia, for the Mattawomecks. At each factory place a man with "sufficient truck" and "at the end of May, our boat may go and fetch the beaver at very small charge."

Of his personal affairs, White writes that he misses Copley and longs for the return of Altham, "who is a true zealant of the good of this place, very active & stirring." It seems these men have gone to England to smooth out matters between the Jesuits and the Proprietary. White is growing deaf and plans to return to London for treatment and so hopes more priests will soon be sent. The noble character of this saintly man is well seen from the fact that his great regrets are that the deafness hinders his hearing confessions and "learning the Indian language, which hath many dark gutturals & drowneth often the last syllable or letteth it so softly fall, as it is even by a good ear hard to be understood." His return will be but temporary. He wishes to be away from the province for a year only and, on his return, "I trust to bring more with me, who will not come alone." He is the first true Marylander in his love for the land. The health of the province has not been good; 16 have died "by disorder of eating flesh & drinking hot waters and wine, by advice of our Chirurgeon,[359] rather than by any great malice of their fevers,[360] for they who kept our diet & abstinence generally recovered." "The over goodness of the land maketh the viands too substantial, that, if duly regulation be not used, in the time of summer, either agues arise from undigested food, or fevers, because great quantities of blood and vital spirits take fire from the heat of the season (our buildings being far too unfit for such a climate) or from some violent exercise." These diseases are "troublesome enough, where we want physic, yet not dangerous at all, if people

[359] Is this Gerard, who is criticised?

[360] White was twice at the point of death from fever in the past year.

will be ruled in their diet, which is hard for the vulgar, unless we had a hospital here to care for them & keep them to rule perforce, which some worthy persons of this place do think upon." This is probably the first suggestion for an hospital in British North America. Poor people, we may well imagine them, in those rude cabins, during the hot weather of summer, shaking with fever and ague and not yet supplied by their pious priests with that Jesuits' bark, which has ameliorated so much man's condition in the years since quinine has become a well-known drug.

Early Court Records

The organization of the province was becoming fixed. The first marriage license, to William Edwin and Mary Whitehead, was issued on March 26, 1638,[351] and a month before, on February 19, 1637-8, the first will was recorded,[352] that of a devout Roman Catholic, William Smith, who died probably in the autumn of 1635, leaving all his goods to his wife Anne.[353] The delay in filing this will shows that, until Lewger's arrival with Leonard Calvert's second commission, there was little formality in the administration of affairs. In fact, the first record of a suit in the Provincial Court is that of those brought by Evelin against the Kent Islanders on December 30, 1637. When the records begin, suits for debt and filing of recognizances to be satisfied when the tobacco crop comes in, are fairly frequent.[354] From these recognizances, we find that several planters were accustomed to work land in partnership with each other.[355] Suits for wages and covenants about hiring servants and paying their wages begin these long discussions concerning indentured servants, which are so

[351] 9 Fund Pubs. 280; 4 Md. Arch. Prov. Ct. 25.
[352] 9 Fund Pubs. 282.
[353] 4 Md. Arch. Prov. Ct. 16.
[354] Ct. 4 Md. Arch. Prov. Ct. 4, 5, 7, 8, 9, 11, 12, 17, 28, 31, 39, 46. Debts usually to be paid on Nov. 10.
[355] Cf. 4 Md. Arch. Prov. Ct. 7, 9, 10, 11, 12, 13, 15, 17, 26, 32.

characteristic of a bygone condition of society.[356] There is considerable formality and careful copying of English precedents from the first. Among the suits, we find one for defamation,[357] another in which Cornwallis was defendant, and the plaintiff unsuccessfully tried to prove that a hogshead of tobacco had been sold as "good and merchantable," but "proved nought," being wetted.[358] A man is bound over to keep the peace,[359] and there are a few miscellaneous cases, among them one of assumpsit against a sawyer, who was alleged not to have delivered boards for the use of the Jesuits at the appointed time.[360] The important case of the year,[361] however, was that against William Lewis. On Sunday, July 1, Lewis told Cornwallis that some of his servants had drawn up a petition to Sir John Harvey and intended, at chapel[362] that morning, to procure all the Protestants to sign it. Cornwallis called Lewger—Calvert being probably in Virginia—and then sent for Robert Sedgrave, one of those of whom Lewis spoke, and drew from him a confession of the writing, which he said was in the possession of Francis Gray, the carpenter. Gray was called, said that he had not as yet read the paper, which he drew from his bosom, but that Sedgrave had desired him to publish it to some of the freemen and procure them to sign it, as a petition to the Governor and Council for the redress of grievances. On reading the petition, which is couched in quaint, devout terms, it was found to be a complaint of the "abuses and scandalous reproaches which God and his ministers do daily suffer" from Lewis. He said that the Protestant

[356] 4 Md. Arch. Prov. Ct. 17, 21, 26, 27, 28, 33, 34, 47.
[357] 4 Md. Arch. Prov. Ct. 18. The action was settled out of court.
[358] 4 Md. Arch. Prov. Ct. 15.
[359] Op. cit. 19.
[360] Op. cit. 35, 40.
[361] Op. cit. 35.
[362] What chapel was this? Was there Protestant service at St. Mary's? Lewis lived at St. Inigoes. He married shortly afterwards (op. cit. 50). He was the Jesuits' overseer (28 Fund Pubs. 158).

clergy were "ministers of the devil," that their books are made by "the instruments of the devil," and will not allow his servants to "keep or read any book which doth appertain to our religion." "This greatly discomforts these poor bondmen . . . especially in this heathen country, where no godly minister is to teach and instruct ignorant people in the grounds of religion." Further, Lewis calls men into "his chamber & there laboreth with all vehemency, craft, & subtlety to delude ignorant persons." After reading the petition against "these absurd abuses & heridiculous crimes," Sedgrave and Gray were bade to return in the afternoon with security to attend court on these charges. The case was heard on Tuesday, July 3, before Calvert, Cornwallis, and Lewger. Sedgrave then testified that he had written the petition, because he and Gray were much offended at Lewis's speeches. When written, he kept it until Sunday, that Gray might speak with Copley. This he did on Saturday, and reported that Copley had given him good satisfaction and blamed much Lewis "for his contumelious speeches & ill governed zeal & said it was fit he should be punished." Gray testified that he asked Sedgrave to draw the petition, as the servants did not know what to do and could not go to the Governor for redress, as the freemen could. Lewis maintained that the whole accusation came from the fact that he came into a room where Sedgrave and Gray were reading Smith's sermons and they read the book aloud "that he might hear it, the matter being much reproachful to his religion, viz. that the Pope was Anti Christ & the Jesuits Anti Christian ministers." Lewis answered that "it was a falsehood and came from the devil as all lies did & that he that writ it was an instrument of the devil," and that he allowed them to have any books they pleased, "so that they read them not to his offence or disturbance in his own house." Here was a troublous matter.[263] Lewis was arousing the reli-

[263] The Governor refused to entertain hearsay evidence of the intent of the men to appeal to Virginia and have Lewis proceeded against there for treason.

gious question, which the administration had tried so hard to quiet, and might embroil matters in Virginia and England. Cornwallis thought that Lewis "offended against the public peace & against the proclamation (made in 1634) for the suppressing of all such disputes, tending to the cherishing of a faction in religion." Lewger said Lewis was guilty of "an offensive & indiscreet speech" and of exceeding his rights, by forbidding his servants "to read a book otherwise allowed and lawful to be read by the State" of England. He thought the general charges unproven, but, "because these his offensive speeches and his other unseasonable disputations in point of religion, were against public peace and a proclamation," he must pay a fine of 500 pounds of tobacco and give security for good behavior. As this judgment was passed by three Roman Catholic judges on one of their own faith, it goes far to prove that religious freedom existed in the province from the very first, especially as this action in the way of a religious controversy is a unique one in these early years. Five marriage bonds [204] were recorded in the court during our period, and seventeen estates came to be settled by Lewger as Judge of Probate.[205] All is done in due form. Adminstrators are appointed and give bond, inventories are filed, nuncupative wills are sworn to, and distribution made.[206] The only prominent men in this list are Jerome Hawley, who died in July, 1638, leaving a small estate, which was consumed in paying debts; Robert Wintour, another councillor, who died during the summer of 1638;

[204] Op. cit. 24, 50, 51.

[205] Three inquests are recorded: two of these are on men drowned (op. cit. 24).

[206] 1. J: Bryant, op. cit. 9, 23, 25, 30, 31, 33.—2. Michael Scott (Kent), 12.—3. J: Saunder, 14.—4. W: Smith, 16, 48.—5. J: Baxter, storekeeper, 76, 103.—6. Susan Sey (Hawley's servant), 24, 44.—7. Thomas Cullamore, 24, 39, 40, 74, 102.—8. Z. Mottershead, 24, 27, 46.—9. W. Blizard (Kent), 24.—10. Richard Bradley, 32.—11. Jerome Hawley, 37, 40, to 45, 59, 100, 503.—12. Andrew Baker, 43, 105 (Evelin's servant).—13. J: Smithson, 45.—14. Jas. Hitches, 49, 54, 73.—15. E. Bateman, 54, 73.—16. Justinian Snow, 55, 79, 108.—17. Robert Wintour, 85, 105.

and Justinian Snow, who died "on the main sea," sailing to Maryland. The last was not in the jurisdiction of the court at the time of his death, but to save his goods his brother Marmaduke was appointed administrator of all property in Maryland or on the high seas.[267]

If some died, others came. Thomas Gerard, surgeon, had arrived with his brother-in-law, Marmaduke Snow, in April, 1638, and, on November 22, came the Brents, Margaret and Mary, and their brothers, Giles and Fulke,[268] with their servants.[268]

The Third Assembly

We hear but little else of the province during this year. In April, two men of Accomack were killed by Indians in a boat somewhere on the Eastern Shore.[269] In October, the vacant place of Commander of Kent Island was filled by the appointment of Wm. Brainthwait, who was empowered to hold a magistrate's court there and grant execution for debts.[270]

As it drew on towards the close of 1638, Leonard Calvert received tidings from his brother, in a letter[271] dated August 21, that he yielded his claim of the initiative in law-making and authorized the Governor in every General Assembly summoned in the province "to give assent unto such laws as you shall think fit and necessary for the good government of Maryland," which laws are approved by the major part of the freemen or their deputies. These laws must also conform to those of England and, when approved by the Governor, were to be in force unless transmitted to the Proprietary and vetoed by him under

[267] A month afterwards (April 24, 1639), as Marmaduke Snow was non compos mentis, Thomas Gerard was substituted for him.

[268] The brothers returned to England in March following, for a short time (Kilty's Landholder's assistant, 67).

[269] 3 Md. Arch. Coun 74; 28 Fund Pubs. 195. The boat was not worth repairing; the beaver and peake were taken by L. Calvert as perquisites of his office of admiral.

[270] 3 Md. Arch. Coun. 81.

[271] 1 Md. Arch. Ass. 31.

the great seal of the province. This important point being settled, Calvert felt that it was wise to call a new Assembly, that some laws might be enacted. On December 21, 1638,[273] he summoned such body to meet at St. Mary's on the following 12th of February. The summons for the Assembly of the previous winter had called the freemen together "to consult & advise of the affairs of this Province." This summons calls their deputies for "the enacting of laws & other serious affairs." Two "discreet, honest burgesses"[274] should be chosen for each hundred by majority vote and the freemen of Kent should contribute "for the defraying of the charges" of their representatives incurred by "repairing to the Assembly." The first general election ever held in Maryland was carried on as follows: At Kent Fort the Kent Islanders met on February 18, 1638-9, and William Brainthwait, Commander of the Island, acted as judge. Lewger, as Secretary of the Province, acted as judge at all the Western Shore elections; meeting the freemen of Mattapanient Manor at his house on February 14; those of St. Michael's Hundred at St. Inigoe's on the 18th; those of St. Mary's at his house on the 19th; and those of St. George's at Capt. Fleet's former house on the 21st. Each Hundred chose two burgesses, but Mattapanient, which, being small, chose but one. Five men were personally summoned to the Assembly and these with Lewger and Calvert and the nine Burgesses made an Assembly of 16 members, which sat as one house[275] and began its sessions[276] on Monday, February 25, 1638-

[273] The writ to Kent Island was directed to the Commander; to the Western Shore Hundreds, to the several freemen by name. 1 Md. Arch. Ass. 27.

[274] Bozman, 103, 104, suggests the name may have come from Virginia and that the double vote of Governor and Proprietary may have been taken from the same source.

[275] 1 Md. Arch. Ass. 32.

[276] At Kent Island, 48 men voted, half of them for one of the deputies and half for the other. From Mattapanient, 7 voted, and of the six names signed to the return, 5 made their marks. From St. Michael's, 14 men voted, and of the 12 signatures to the return,

9, at St. Mary's Fort, whence it at once removed to St. John's.[276] Cornwallis is here and so are Greene and Dr. Gerard, while the two Brents, Fulke and Giles, have come to the province and been added to the Council. Wintour was dead and Evelin was away and John Boteler, Claiborne's brother-in-law, who had become partially reconciled to the Proprietary party, did not appear, though summoned as member of the Council. On the first day,[277] Cuthbert Fenwick and Robert Clerke, the Jesuits' employee, came and "claimed a voice, as not assenting to the election" of St. Mary's Burgesses. They were admitted, but seemed content with thus establishing their rights, for they do not seem to have returned after the morning session, and thus their admission was not so important as has been thought by some historians. The first thing done was to read Baltimore's letter,[278] permitting the Assembly to initiate legislation, and then was passed, before the rules of the houses were adopted, "An act for establishing the house of Assembly & the laws to be made therein." This act claimed for the Maryland Burgesses that they "supplied the places of all freemen consenting" to their election, "as do the Burgesses in the House of Commons" in England, and that they form the House of Assembly with the "gentlemen" personally summoned and such other freemen, who did not consent to the election, as may assemble.[279] Twelve was a quorum, of which number the Lieutenant-General and Secretary should always be two. The Gov-

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7 were those of marksmen; 17 voted from St. Mary's and 7 of the 15 signers of the return made their mark. Of the St. George's men, 20 voted, and 8 of the 18 signers were marksmen. The burgesses, of course, never signed the return, so we find there were 50 voters in Kent and 58 in St. Mary's, showing no great preponderance in the population of the Western Shore.

[276] 2 Bozman, 101, suggests that this was Baltimore's manor house near the town.

[277] 1 Md. Arch. Ass. 32. Was their admission merely to prove the right of any freeman?

[278] It was read again on the 28th. 1 Md. Arch. Ass. 35.

[279] 1 Md. Arch. Ass. 33, 81.

ernor had a casting vote and bills which were approved by the "major part of the persons assembled" and assented to by him, in the name of the Proprietary, should become laws, as if the Proprietary and all the freemen were personally present and assenting. The passage of this bill was followed by the adoption of orders[280] to be observed, largely copied from the rules of the last House. An act touching the payment of tobaccoes, already the provincial currency, was read,[281] and the Assembly adjourned till afternoon. At that time, 13 bills were introduced and then the House adjourned until Thursday, when 20 more bills were brought in. On the same day, the Assembly vindicated its powers as a court, by hearing a civil case, refusing a pardon to a Kent Islander,[282] and voting to have "whipped three several times" a man who was convicted of "flight and carrying away of goods unlawfully from his Master."[283] In the discussion of the bills which had been introduced, the House was occupied on Friday and Saturday and then adjourned until Wednesday, March 6, on which day a civil case, in which Cornwallis was a party, was heard. On Thursday, the courageous Mrs. James's suit against Evelin was heard,[284] and the "Court," for the Assembly was both legislative and judiciary, ordered that the "damages demanded should be alleged & drawn up in form next day," but no trace of this is found.[285] From Friday the Assembly adjourned until the next Friday, March 15, and, from that day, on which they did little, to Monday, March 18. At that time[286]

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[280] 1 Md. Arch. Ass. 33. No one to use "nipping or uncivil terms."

[281] This bill seems to have been rejected on March 1. 1 Md. Arch. Ass. 36.

[282] 1 Md. Arch. Ass. 35. I cannot find record of his conviction nor what his "censure" was.

[283] Ten voted. Greene wished him hanged.

[284] 1 Md. Arch. Ass. 37.

[285] An interesting point of parliamentary law was raised this day, showing how keen the members were to seize on mistakes in procedure. 1 Md. Arch. Ass. 38.

[286] 1 Md. Arch. Ass. 39.

a new bill, "ordaining certain laws for the government of this Province," was introduced and twice read, and the Assembly returned to St. Mary's. On the morrow, this bill was passed, four of the Western Shore Burgesses voting against it, and the Assembly adjourned. Lewger spread on the records, in full, 36 bills which had not come to final passage. A probable theory is that Lewger, or some English lawyer, drafted these bills, which were too complex to suit the Assembly, and that after several adjournments, in the vain hope to have the bills passed, Calvert accepted a short but comprehensive measure.[287]

The First Provincial Laws

The act was established as a temporary one, to endure to the end of the next General Assembly, or for three years, if there be no Assembly within that time. Though Blackstone's remark[288] that the colonists carried "with them so much of the English law, as was applicable to their own situation & the condition of an infant colony," is a correct statement of the position of Maryland men, here, at length, through the Proprietary's judicious concession, is a beginning of their own law-making and here too began the enactment of temporary laws, so conspicuous a feature of the province's history. The statute begins with the rather mysterious statement that "Holy church within this Province shall have all her rights & Liberties."[289] This is probably an echo of a similar clause in Magna Charta and hardly looked towards an establishment of the Roman Catholic Church, as Bozman thought. Johnson's view is more probable, that the Assembly meant "that the Christian Church should be free from unlawful interference by any temporal power whatever," and that the provision was a "guaranty of liberty of conscience to all Christian people in Maryland."

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[287] 1 Md. Arch. Ass. 82. [288] 1 Commentaries, 107.
[289] 1 Md. Arch. Ass. 40, 82; 2 Bozman, 107 ff. 18 Fund. Pubs. 2.

The second provision[280] required all "inhabitants" to take "an oath of allegiance to his majesty," but gave no form for such oath, though one had been contained in a bill which failed of passage. This latter bill was based on the English Statute,[281] but omitted from the oath it prescribed the denial of the power of the Pope to depose the King or intermeddle in English affairs. The bill also inserted the word "lawful" before "successors" of the King in stating to whom allegiance was sworn, and omitted the word "persons," in binding the oath-taker to defend the ruler from conspiracies against "his or their crown or dignity." Bozman suggests, acutely, that these changes would render the oath more acceptable to Roman Catholics and reminds us that the unamended oath was the one tendered the first Lord Baltimore in Virginia some years before. Though the bill was not passed, Calvert adopted the form of oath therein contained as the one to be used in the province, and at a court held the day after the adjournment of the Assembly, had the secretary administer this oath to him, and then Calvert administered it in turn to all the Council.[282] The statute goes on to state that the "Lord Proprietary shall have all his rights & prerogatives." Here again we have merely a general statement, but two of the engrossed bills show us what probably was meant and that especial thought was directed to his title to the lands and to his monopoly of Indian trade. Claiborne, and the Dutch and Swedes on the Delaware, must be kept out. Just at this time, the spring

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[280] 2 Bozman, 111.

[281] 3 Jac. 1, ch. 4, the oath is given in full in 2 Bozman, 600.

[282] 3 Md. Arch. Coun. 85. 2 Bozman, 111, thinks this a proof that the bills copied in the records, but not enacted, were considered as directory to, if not obligatory upon, the inhabitants of the province; but it seems more likely that, in the absence of a legally enacted form of oath, Calvert chose a form which was acceptable to himself. On the same day, he gave official oaths to councillors and secretary in form prescribed by another bill which failed to pass (vide, 1 Md. Arch. Ass. 44). Similarly we find that this form was used five years later, when James Neale was sworn in the Council (3 Md. Arch. Ass. 131).

fur trade was beginning and Calvert was very active.[293] On March 6, he directed John Harrington to seize any persons, vessels or goods found in the Indian trade without the Proprietary's license;[294] on March 11, he commissioned Fenwick and John Hollis to search any vessels in the province and arrest those engaged in such illicit trade; and on March 14, he commissioned Andrew Chappell and Thomas Morris to engage in the Indian trade.

The fourth provision of the act enacts that the inhabitants shall have all their "rights and liberties according to the great charter of England."[295] This brief but comprehensive statement was substituted for a bill enumerating provisions of the great charter to which the colonists were entitled, and its breadth shows the completeness with which the settlers claimed the right of Englishmen.

The next two paragraphs in the law are well called a "legislative confirmation of the previous arrangements," for the judiciary made by the executive.[296] They follow Baltimore's instructions to Calvert, in great measure, and direct that the Governor within the province and the commander of Kent, within the island, except where they are parties, shall be judges in civil cases, the Governor being apparently not bound by his Council's opinions. In criminal cases, however, the Lieutenant-General and Council have jurisdiction and, in crimes punished by loss of life or member, a jury trial is necessary for conviction.[297] Bozman points out that by the commission of April 15, 1637, the judges should determine cases involving loss of life or

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[293] 1 Md. Arch. Ass. 41, 44. A bill for trade with the Indians was rejected, p. 36, and a second one of different character introduced, p. 38 (3 Md. Arch. Coun. 84).

[294] 3 Md. Arch. Coun. 83, 85. A commission of the sort was issued on April 13 to T: Boys (3 Md. Arch. Coun. 85). Licenses to trade are found to Andrew Chappell and Thomas Morris (3 Md. Arch. Coun. 84, 87).

[295] 2 Bozman, 116; 1 Md. Arch. Ass. 41.

[296] 2 Bozman, 117; 1 Md. Arch. Ass. 83.

[297] The commander of Kent was able to act in petty cases without "Council." 2 Bozman, 119 ff.; 1 Md. Arch. Ass. 71 ff.

member as a punishment "according to the laws of the Province," and there were no such criminal laws passed, though bills were introduced for treasons, felonies, allowing book to certain felonies (i. e., benefit of clergy) and "determining enormous offences."

Other bills,[298] which failed, would have made the judicial system more complex, providing for a court of admiralty, a county court, a court of chancery, a pretorial court for trial of capital crimes and enormous offences.[299] The justice of the peace's court was provided for in another bill, and still another directed the establishment of tythingmen of manors, constables of hundreds, a sheriff and coroner of the county, and a public executioner. A complete organization of the Island of Kent was formed by still another bill, while still another provided for the recovery of debts.[300]

In the seventh paragraph of the statute, we find a confirmation of the probate powers of the secretary and a grant to the commander of Kent to preserve the estates of deceased persons, till a will be filed or administration granted.[301] An elaborate bill for succession to goods is found among those engrossed, as are others to fix descent of lands, assuring land titles, enrolling grants[302] and "people of the province, and limiting times of servants."[303]

Though a militia law was among those that failed, the act passed provided for the use of military power by the captain of the military band and the commander of Kent, under direction of the Governor.[304]

The great subject of officers' fees,[305] so long a vital one

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[298] 2 Bozman, 127 ff.; 1 Md. Arch. Ass. 46 ff.

[299] The name doubtless comes from the Latin word *praetoria*, used in the charter as the name of one of the courts the Proprietary might establish. Special privileges given Lords of the Manor in this bill seem to show the purpose of establishing a colonial nobility.

[300] 1 Md. Arch. Ass. 67; 2 Bozman, 141.

[301] 1 Md. Arch. Ass. 64; 2 Bozman, 144.

[302] 1 Md. Arch. Ass. 60 ff.

[303] 1 Md. Arch. Ass. 80.

[304] 1 Md. Arch. Ass. 77-84.

[305] 1 Md. Arch. Ass. 57 ff.; 2 Bozman, 146.

in provincial politics, is first introduced here by a provision that they be paid, according to the table in an engrossed bill. The treasurer is to defray necessary public charges by warrant from Governor and Council. The Governor and Council are empowered to "appoint" how goods without an owner shall be "employed."[306] Goods of an insolvent debtor must be "sold at an outcry & distributed equally among all the creditors inhabiting within the Province," with the following preferences: first, debts to the Lord Proprietary; second, fees and duties to public officers and charges; third, ordinary debts; fourth, debts for "wine and hot waters." This early insolvency law shows also the first unfavorable legislation towards the liquor traffic.

Every person planting tobacco was directed by the statute to "plant & tend 2 acres of corn," to prevent danger of want in case of Indian hostility or of growth of population beyond what the Indians could supply;[307] tobacco shipped from Maryland to any place not in England, Ireland or Virginia should pay an export duty of 5 per cent, which the engrossed bill gave to the Proprietary, thus imitating a similar duty which went to the King in the Virginia charter.[308]

The next paragraph of the act deals with constitutional law and provides that future Assemblies shall be composed just as this one was, of Governor, Secretary, Gentlemen especially summoned, and one or two burgesses out of every hundred.[309]

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[306] 1 Md. Arch. Ass. 84.

[307] 2 Bozman, 83, 148, 593, shows that Charles I attempted to make a royal monopoly of tobacco traffic in 1635, and points out that a similar law was passed in Virginia in 1624 and 1629. 1 Md. Arch. Ass. 79, 80, act for weights and measures for custom on tobaccos.

[308] Public ports are provided for in the engrossed bills. 1 Md. Arch. Ass. 76.

[309] 2 Bozman, 151. Engrossed bills, providing for at least a triennial assembly and prescribing what persons should sit therein, are found in 1 Md. Arch. Ass. 74 ff., and a Town house is directed to be built, p. 76.

The act proceeds, directing that all commissions from the Proprietary in force at his death shall remain so till a new commission issues under the great seal, and the final provision is a quaint one, levying as a tax, a maximum amount of 10,000 lbs. tobacco a year, for two years, on all inhabitants of the colony, to pay for "any bargain which the Lieutenant General & council shall make with any undertaker for the setting up of a water mill for the use of this colony."

Here a discussion of the beginnings of Maryland may well end. The Proprietary has secured title to his province and established a permanent settlement there, has ousted all other claimants for the time being, and has established a permanent policy with reference to his relations to the settlers in matters of law-making. Economically, the fur-trading period of provincial history is passing away and the planting period is beginning. In the near future, the troubles of the English Civil War will involve the province in difficulties and show the beginnings of that interrelation of English and American politics, which lasted until there was no longer a province of Maryland. A study of these troubles, however, may well be disassociated from the narration of the first settlement.

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